

# *Tamworth Regional Council*

## Code of Meeting Practice

*Updated 23 October 2009*



*More than just a city. More than just one place.*

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# TAMWORTH REGIONAL COUNCIL

## CODE OF MEETING PRACTICE

### PART 1 - PRELIMINARY

#### 1 CITATION

This code may be cited as the Tamworth Regional Council Code of Meeting Practice.

#### 2 DEFINITIONS

(i) In this code:

- (a) **amendment**, in relation to an original motion, means a motion moving an amendment to that motion;
- (b) **chairperson**,
  - in relation to a meeting of the council - means the person presiding at the meeting as provided by clause 11 of this code; and
  - in relation to a meeting of a committee - means the person presiding at the meeting as provided by clause 52 of this code;
- (c) **committee** means a committee established under clause 45 or the Council when it has resolved itself into a committee of the whole;
- (d) **record** means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a councillor or an employee of the Council and, in particular, includes the minutes of meetings of the Council or of a committee of the Council;
- (e) **relative**, in relation to a person, means any of the following:
  - the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;
  - the spouse or the de facto partner of the person or of a person referred to in paragraph (f).
- (f) **the Act** means the Local Government Act 1993;
- (g) **the Code** means the Tamworth Regional Council Code of Meeting Practice; and the Regulation means the Local Government General Regulation 2005.

(ii) Except as otherwise provided, expressions used in this code which are defined in the dictionary at the end of the Act have the meanings set out in the dictionary.

### 3 ACT, REGULATIONS AND CODE

- (i) This code is made pursuant to **Section 360(2)** of the Act.
- (ii) It incorporates relevant provisions of the Regulation, the Act and council meeting practice policy not consistent with the Regulation and the Act.
- (iii) In the event of any inconsistency between the code and the Act or the Regulation, the Act or the Regulation (as the case may be) shall prevail to the extent of the inconsistency.

### 4 NOTES TO TEXT

Notes in the text of this code are explanatory notes and do not form part of this code. They are provided to assist understanding.

## PART 2 - CONVENING OF AND ATTENDANCE AT COUNCIL MEETINGS

### 5 FREQUENCY OF MEETINGS OF THE COUNCIL

- (i) The Council is required to meet at least 10 times each year, each time in a different month. **[S 365]**
- (ii) The Council has, by resolution, set the time, date and place of ordinary meetings of the Council. Ordinary meetings of the Council will commence at 6.30pm with a target completion time of 9.30pm on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month and be held in the Tamworth Regional Council Chambers, 437 Peel Street, Tamworth. here will be no ordinary meetings held in the month of January. **[220/09]**
- (iii) The Council may, by resolution, vary the time, date and place of ordinary meetings should extenuating circumstances exist which would prevent the ordinary meetings of the Council being held in accordance with clause 5 (ii).

### 6 EXTRAORDINARY MEETINGS

- (i) The mayor may call extraordinary meetings of the Council.
- (ii) If the mayor receives a request in writing signed by at least 2 Councillors, the mayor must call an extraordinary meeting of the Council to be held as soon as practicable but in any event within 14 working days after the receipt of the request. **[S 366]**
- (iii) For the purpose of subSections 6(ii) a working day is a day that is not a Saturday, Sunday or public holiday.

### 7 NOTICE OF MEETINGS

- (i) The general manager of the Council must send to each Councillor, at least 3 days before each meeting of the Council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting. **[LGGR 262(1); S 367 (1)]**

- (ii) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency, but in no case shall notice of less than one day be given. [LGGR 262(1); S 367 (2)]
- (iii) Sub clauses (i) and (ii) do not apply to the consideration of business at a meeting if the business:
  - (a) is already before, or directly relates to a matter that is already before, the Council; or
  - (b) is the election of a chairperson to preside at the meeting as provided by clause 11(iii); or
  - (c) is a matter or topic put to the meeting by the chairperson in accordance with clause 17; or
  - (d) is a motion for the adoption of recommendations of a committee of the Council.
- (iv) Despite sub clauses 7(i) and 7(ii), business may be transacted at a meeting of the Council even though due notice of the business has not been given to the Councillors. However, this can happen only:
  - (a) a motion is passed to have the business transacted at the meeting; and
  - (b) either:
    - all the councillors (disregarding any casual vacancies) are present at the meeting; or
    - the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice.

- (v) Despite clause 30 relating to the limitation as to the number of speeches, only the mover referred to in sub clause (iv) can speak to the motion before it is put.

## **8 QUORUM [S 368]**

The quorum for a meeting of the Council is a majority of the councillors of the Council who hold office for the time being and are not suspended from office.

## **9 WHAT HAPPENS WHEN A QUORUM IS NOT PRESENT [LGGR 233]**

- (i) A meeting of the Council must be adjourned if a quorum is not present:
  - (a) within half an hour after the time designated for the holding of the meeting; or
  - (b) at any time during the meeting.
- (ii) In either case, the meeting must be adjourned to a time, date and place fixed:
  - (a) by the chairperson; or
  - (b) in his or her absence - by the majority of the councillors present; or

- (c) failing that, by the general manager.
- (iii) The general manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the councillors present.

## **10 PRESENCE AT COUNCIL MEETINGS [LGGR 235]**

A councillor cannot participate in a meeting of the Council unless personally present at the meeting.

### **10A LEAVE OF ABSENCE FROM COUNCIL MEETINGS [LGA S234, LG(General) Regulation 2005 CI 235A and LP]**

- (1) A civic office becomes vacant if the holder is absent from three consecutive ordinary meetings of the Council unless the holder is absent because he or she has been suspended from office under **Section 482** without:
  - (i) Prior leave of the Council, or
  - (ii) Leave granted by the Council at any of the meetings concerned.
- (2) For the purpose of Clause (1)(i) & (ii), a Councillor applying for leave of absence from a meeting of a Council does not need to make the application in person and the Council may grant such leave in the absence of that Councillor.
- (3) If the councillor attends a Council meeting (whether or not an ordinary meeting) despite having been granted leave absence, the leave of absence is taken to have been rescinded as regards any future Council meeting.
- (4) Clause (3) above does not prevent the Council from granting a further leave of absence in respect of any future Council meeting.
- (5) A councillor's application for leave of absence from Council meetings should be in writing, and should if practicable, identify (by date) the meetings from which the councillor intends to be absent.
- (6) Councillors who will be on leave of absence from Council business for an extended period should either:

submit an application for such leave to the General Manager who will in turn submit the application to the next Ordinary meeting of the Council to obtain the necessary Council resolution.; or

  - (i) request leave of absence from Council business for an extended period at an appropriate part of an Ordinary Council Meeting identified in the Council Ordinary Meeting Agenda.
- (7) A councillor who intends to attend a Council meeting despite having been granted leave of absence, should, if practicable, give the General Manager at least two days notice of his or her intention to attend.

### **10B CIRCUMSTANCES IN WHICH ANNUAL FEES MAY BE WITHHELD [LGA 254A(a)]**

- (1) The Council may resolve that an annual fee will not be paid to a Councillor or that a Councillor will be paid a reduced annual fee determined by the Council for

any period of not more than three months for which the Councillor is absent, with or without leave, from an Ordinary Meeting or Ordinary Meetings of the Council.

- (2) If a Councillor is absent, with or without leave of the Council, from Ordinary Meetings of the Council for any period of more than three months, the Council must not pay any annual fee, or part of an annual fee, to that Councillor that relates to the period of absence that is in excess of three months.

## **PART 3 - PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS**

### **11 CHAIRPERSON OF COUNCIL MEETINGS**

- (i) A Council may resolve itself into a committee to consider any matter before the Council. [S 373]
- (ii) The mayor or, at the request of or in the absence of the mayor, the deputy mayor presides at meetings of the Council. [S 369 (1)]
- (iii) If the mayor and the deputy mayor are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the Council. [S 369 (2)]
- (iv) If no chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting. [LGGR 236(1)]
- (v) The election must be conducted:
  - (a) by the general manager or, in his or her absence, an employee of the Council designated by the general manager to conduct the election; or
  - (b) if neither of them is present at the meeting or there is no general manager or designated employee - by the person who called the meeting or a person acting on his or her behalf. [LGGR 236(2)]
- (vi) If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot drawn by the general manager or his nominee. [LGGR 236(3)]
- (vii) For the purpose of subclause 11(vi), the person conducting the election must:
  - (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips; and
  - (b) then fold the slips so as to prevent the names being seen, mix the slips and draw one of the slips at random. [LGGR 236(4)]
- (viii) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson. [LGGR 236(5)]
- (ix) The Councillor appointed as Mayor and Deputy Mayor from time to time under Section 369 of the Local Government Act 1993 to preside at Council Meetings is authorised, pursuant to a resolution of the Council passed on 28 October 2004, to exercise the power of expulsion of a Councillor from a Council Meeting for engaging in or have engaged in disorderly conduct at the meeting, such

disorderly conduct being in the nature identified in **clause 256(1)** of the Local Government (Meetings) Regulation 1999.

- (x) The Councillor appointed from time to time as Mayor and Deputy Mayor under **Section 369** of the Local Government Act 1993 to preside at Council Meetings is authorised, pursuant to a resolution of the Council passed on 28 October 2004, to exercise the power of expulsion of a member of the public engaging in or have engaged in disorderly conduct at the meeting.

## **12 CHAIRPERSON TO HAVE PRECEDENCE [LGGR 237]**

When the chairperson rises or speaks during a meeting of the Council:

- (i) any councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat; and
- (ii) every councillor present must be silent to enable the chairperson to be heard without interruption.

## **13 CHAIRPERSON'S DUTY WITH RESPECT TO MOTIONS [LGGR 238]**

- (i) It is the duty of the chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting.
- (ii) The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- (iii) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected.

## **14 CHAIRPERSON'S DUTY WITH RESPECT TO IDENTIFICATION OF COUNCILLORS AND STAFF [LP]**

It is the duty of the chairperson at a meeting of the Council to identify by reference to the name of the councillor or either the name or designation of a member of staff prior to the councillor or member of staff being able to address a meeting of the Council.

## **15 MINUTES [S 375(1)]**

- (i) The Council must ensure that full and accurate minutes are kept of proceedings of a meeting of the Council. **[S375(1)]**
- (ii) The minutes must, when they have been confirmed at a subsequent meeting of Council, be signed by the person presiding at that subsequent meeting. **[S375(2)]**
- (iii) The general manager must ensure that the following matters are recorded in the Council's minutes: **[LGGR 254]**
  - (a) details of each motion moved at a Council meeting and of any amendments moved to it,
  - (b) the names of the mover and the seconded of a motion or amendment,
  - (c) whether the motion or amendment is passed or lost. **[LGGR 254]**

- (iv) The correctness of the minutes of every preceding meeting, including extraordinary meeting, not previously confirmed must be dealt with at every ordinary meeting of the Council, in order that such minutes may be confirmed.
- (v) A motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.
- (vi) Minutes may be confirmed at an extraordinary meeting of the Council.

## **16 MINUTES - SOUND RECORDING [LP]**

- (i) Council's Principal Committees will be recorded electronically in "open committee"
- (ii) Ordinary and extraordinary meetings of the Council will be recorded electronically in "open Council".
- (iii) A master recorded copy of Council and Committee Meetings will be retained in safe custody within the Council.
- (iv) The master copy will be destroyed after three (3) months
- (v) Audio recording equipment will be made available for any other committee or working group upon request provided that the subject meeting is conducted in the Council Chambers.

## **17 ORDER OF BUSINESS [LGGR 239]**

- (i) At a meeting of the Council (other than an extraordinary meeting), the general order of business is (except as provided by this code) such as the Council has fixed by resolution passed at any previous meeting or, if no such resolution has been passed, in accordance with this code and the schedule.
- (ii) The order of business fixed under subclause 17(i) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.
- (iii) Despite clause 30, only the mover of a motion referred to in subclause 17(ii) may speak to the motion before it is put.

## **18 AGENDA AND BUSINESS PAPERS FOR COUNCIL MEETINGS [LGGR 240]**

- (i) The general manager must ensure that the agenda for a meeting of the Council states:
  - (a) all matters to be dealt with arising out of the proceedings of former meetings of the Council; and
  - (b) if the mayor (or the deputy mayor if acting for the mayor) is the chairperson - any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting; and
  - (c) subject to subclause 18(ii), any business of which due notice has been given.
- (ii) The general manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would

be) unlawful. The general manager must report (without giving details of the item of business) any such exclusion to the next meeting of the Council.

- (iii) The general manager must cause the agenda for a meeting of the Council or committee of the Council to be prepared as soon as practicable before the meeting.
- (iv) The general manager must ensure that the details of any item of business to which **Section 9(2A)** of the Act and Clause 64(vii) of this Code applies are included in a business paper for the meeting concerned.
- (v) Nothing in this clause limits the powers of the chairperson under clause 21.

## 19 GIVING NOTICE OF BUSINESS [LGGR 241]

- (i) The Council must not transact business at a meeting of the Council:
  - (a) unless a councillor has given notice of the business in writing by noon of the Thursday immediately preceding the meeting; and
  - (b) unless notice of business has been sent to the councillors at least 3 days before the meeting, or, in the event of an extraordinary meeting called in an emergency, at least one day. [S 367]
- (ii) Subclause (i) does not apply to the consideration of business at a meeting if the business:
  - (a) is already before, or directly relates to a matter that is already before, the Council; or
  - (b) is the election of a chairperson to preside at the meeting as provided by clause 11(iv); or
  - (c) is a matter or topic put to the meeting by the chairperson in accordance with clause 21; or
  - (d) is a motion for the adoption of recommendations of a committee of the Council.
- (iii) Despite subclause (i), business may be transacted at a meeting of the Council even though due notice of the business has not been given to councillors. **C 38(iii)**  
However, this can happen only if:
  - (a) a motion is passed to have the business transacted at the meeting; and
  - (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.  
  
Such a motion can be moved without notice.
- (iv) Despite clause 30, only the mover of a motion referred to in subclause 19(iii) can speak to the motion before it is put.

## 20 AGENDA FOR EXTRAORDINARY MEETING [LGGR 242]

- (i) The general manager must ensure that the agenda for an extraordinary meeting of the Council deals only with the matters stated in the notice of the meeting.

(ii) Despite subclause 20(i), business may be transacted at an extraordinary meeting of the Council even though due notice of the business has not been given to the councillors. However, this can happen only if:

- (a) a motion is passed to have the business transacted at the meeting; and
- (b) the business approved to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.

(iii) Despite clause 30 relating to limitations as to number of speeches, only the mover of a motion referred to in subclause 20(ii) can speak to the motion before it is put.

## **21 OFFICIAL MINUTES [LGGR 243]**

- (i) If the mayor (or the deputy mayor, if acting for the mayor) is the chairperson at a meeting of a Council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.
- (ii) Such a minute, when put to the meeting, takes precedence over all business on the Council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor, or the deputy mayor, if acting for the mayor) may move the adoption of the minute without the motion being seconded.
- (iii) A recommendation made in a minute of the chairperson (being the mayor, or deputy mayor, if acting for the mayor) or in a report made by a Council employee is, in so far as adopted by the Council, a resolution of the Council.

## **22 REPORT OF A DEPARTMENT OF LOCAL GOVERNMENT REPRESENTATIVE TO BE TABLED AT COUNCIL MEETING [LGGR 244]**

When a report of a Department of Local Government representative has been presented to a meeting of the Council in accordance with [Section 433](#) of the Act, the Council must ensure that the report:

- (i) is laid on the table at that meeting; and
- (ii) is subsequently available for the information of councillors and members of the public at all reasonable times.

## **23 NOTICE OF MOTION - ABSENCE OF MOVER [LGGR 245]**

In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the Council:

- (i) any other Councillor may move the motion at the meeting; or
- (ii) the chairperson may defer the motion until the next meeting of the Council at which the motion can be considered.

**24 MOTIONS TO BE SECONDED [LGGR 246]**

- (i) A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the chairperson to speak to the motion before calling for the motion to be seconded. This clause is subject to clauses 21(ii) and 30(v).
- (ii) The seconder of a motion or of an amendment may reserve the right to speak later in the debate.

**25 HOW SUBSEQUENT AMENDMENTS MAY BE MOVED [LGGR 247]**

- (i) If an amendment has been accepted or rejected, a further amendment can be moved to the motion in its original or amended form (as the case may be), and so on, but no more than one motion and one proposed amendment can be before the Council at any one time.
- (ii) It is permissible to debate the motion and an amendment concurrently.
- (iii) It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.

**26 MOTIONS OF DISSENT [LGGR 248]**

- (i) A councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- (ii) If a motion of dissent is carried, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the business paper and proceed with it in due course.
- (iii) Despite clause 30, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

**27 PETITIONS MAY BE PRESENTED TO THE COUNCIL [LP]**

- (i) A councillor may present a petition to the Council.
- (ii) The chairperson must not permit discussion on the petition.
- (iii) The petition will be referred to the general manager for appropriate action or referral to a future meeting of the Council.

**28 QUESTIONS MAY BE PUT TO COUNCILLORS AND COUNCIL EMPLOYEES [LGGR 249]**

- (i) A councillor:
  - (a) may, through the chairperson, put a question to another councillor; and

- (b) may, through the chairperson and the general manager, put a question to a Council employee.
- (ii) However, a councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.
- (iii) Any such question shall be put directly, succinctly, and without argument. The chairperson shall at all times reserve the right to require the councillor to submit the question in writing. The chairperson shall also reserve the right to direct that the response in relation to such question be reported in writing to a future meeting of the Council.
- (iv) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a councillor or Council employee under this clause.
- (v) Nothing in this clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting.

## **29 MODE OF ADDRESS [LP]**

Councillors shall at all times address other councillors by their official designation, for example, Mr. Mayor or Councillor Brown, as the case may be; and with the exception of the chairperson, or any councillor prevented by physical infirmity, shall stand when speaking or addressing ordinary or extraordinary meetings of the Council.

## **30 LIMITATION AS TO NUMBER OF SPEECHES [LGGR 250]**

- (i) A councillor who, during a debate at a meeting of the Council, moves an original motion has the right of general reply to all observations that are made by another councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- (ii) A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to the motion.
- (iii) A councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment and for longer than 5 minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- (iv) Despite clauses 30(i) and 30(ii), a councillor may move that a motion or an amendment be put:
  - (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it; or
  - (b) if at least 2 councillors have spoken in favour of the motion or amendment and at least 2 councillors have spoken against the motion or amendment.
- (v) The chairperson must immediately put to the vote, without debate, a motion moved under clause 30(iv). A seconder is not required for such a motion.
- (vi) If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment

to the vote immediately after the mover of the original motion has exercised his or her right of reply under clause 30(i).

- (vii) If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed.

### 31 MOTIONS PUT WITHOUT DEBATE [LP]

Provided there is no objection from any councillor present, any motion or recommendation before the Council may be put to the vote without discussion or debate.

### 32 VOTING AT COUNCIL MEETINGS

- (i) Each councillor is entitled to one vote. [S 370(1)]
- (ii) However, the chairperson has, in the event of an equality of votes, a second or casting vote. [S 370(2)]
- (iii) A councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion. This subclause does not apply to a councillor who does not vote because he or she has pecuniary interest in the subject matter of the motion. [LGGR 251(1)]
- (iv) If a councillor who has voted against a motion put at a Council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the Council's minutes. [LGGR 251(2)]
- (v) The decision of the chairperson as to the result of a vote is final, unless:
  - (a) in the case where a vote has been declared on the voices, a councillor immediately requests a show of hands; or
  - (b) the decision is immediately challenged and not fewer than 2 councillors rise and demand a division. [LGGR 251(3)]
- (vi) When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes. [LGGR 251(4)]
- (vii) Voting at a Council meeting, including voting in an election at such a meeting is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by Secret Ballot. [LGGR251(5)]

*NOTE: The Local Government (Elections) Regulation 1998 provides that a Council is to resolve whether an election by the councillors for a mayor or deputy mayor is to be by preferential ballot, ordinary ballot or open voting (clause 124 and clause 3 of Schedule 3). Clause 3 of Schedule 3 also makes it clear that "ballot" has its normal meaning of secret ballot.*

**Recording of voting on planning matters [LGAct375(A)]**

- (1) In this section, planning decision means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
  - (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
  - (b) not including the making of an order under Division 2A of Part 6 of that Act.
- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

**33 RETURNING OFFICER**

- (i) When an election is to be conducted, the returning officer shall be:
  - (a) the general manager or, in his or her absence, an employee of the Council designated by the general manager to conduct the election; or
  - (b) If neither of them is present at the meeting or there is no general manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.
- (ii) The Council will determine the system of voting, that is, either "**ordinary ballot**", "**first past the post**" or other system of voting.
- (iii) The returning officer will confirm the method of voting.
- (iv) The returning officer will keep a recording sheet and announce results of the election process as each stage of the election proceeds.

**34 SHOW OF HANDS - BY ORDINARY BALLOT [LP]**

Where the Council determines that the method of voting shall be by **ORDINARY BALLOT** the following voting procedures shall apply:

- (i) Where there are only two candidates, the returning officer shall declare elected that candidate who receives the higher number of votes on a show of hands.

- (ii) Where there are three or more candidates, the candidate who receives the lowest number of votes on a show of hands shall be excluded.
- (iii) Where there are three or more candidates remaining after the exclusion of a candidate under clause (ii), a further vote shall be taken in respect of those candidates and the candidate who receives that lowest number of votes on a show of hands shall be excluded.
- (iv) Where there are four or more candidates remaining after the exclusion of a candidate under clause (iii), the procedure as set out in that clause shall be repeated until only two candidates remain.
- (v) Where there are only two candidates remaining after the exclusion of a candidate, all candidates under clauses (ii), (iii), or (iv), a further vote shall be taken in respect of those candidates and the returning officer shall declare elected that candidate who receives the higher number of votes on a show of hands.
- (vi) If on any count of votes on a show of hands at an election using the ordinary ballot method of voting, the number of votes cast on a show of hands or two or more candidates is equal and those candidates are:
  - (a) the only candidates in the election, or the only candidates remaining in the election; or
  - (b) the candidates with the lowest number of votes on the show of hands,  
the returning officer shall determine by the drawing of lots which of those candidates shall be excluded or elected, as the case may be, and the following provisions shall apply.
    - (c) the manner of drawing of lots shall be decided by the returning officer and announced to the Council.
    - (d) where there are only two candidates in the election, or where only two candidates remain in the election, the candidate whose name is first drawn shall be deemed to have received the highest number of votes on a show of hands.

### 35 SHOW OF HANDS - BY FIRST PAST THE POST VOTING METHOD [LP]

- (i) Where the Council has determined that the voting method shall be by the first past the post method, the returning officer will announce the names of the councillors nominated in alphabetical order and ask each councillor to record his or her vote by a show of hands in respect of the candidate names and each councillor is to limit their voting to the number of candidates to be **ELECTED**.
- (ii) If there is only one candidate to be elected, on a show of hands the candidate with the higher number of votes (recorded on a count sheet by the returning officer) is **ELECTED**.
- (iii) If there is two or more candidates to be elected, on a show of hands the candidates with the highest number of votes (recorded on a count sheet by the returning officer) are **ELECTED** for the number of positions to be filled.
- (iv) In the event of two candidates recording **equal and highest** number of votes on a show of hands, the names of the candidates who have **equal and highest** number of votes are written on similar slips of paper by the returning officer, the

slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slips is **ELECTED**

### **36 RESOLUTIONS PASSED AT CLOSED MEETINGS TO BE MADE PUBLIC**

- (i) If the Council passes a resolution during a meeting, or part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended. [LGGR 253]
- (ii) The general manager will, as soon as practicable, make available for public inspection a resolution passed during a meeting, or part of a meeting, that is closed to the public. [S12(1) and LP]
- (iii) A copy of a resolution passed during a meeting, or part of a meeting, that is closed to the public will be available (either free of charge or on payment of a reasonable copying charge, as the Council chooses) by anyone who asks for a copy. [S12(2) and LP]
- (iv) Where it is proposed in a business paper for a Council or committee meeting to consider a matter in a meeting, or part of a meeting, that is closed to the public and the grounds for doing so are specified in accordance with Section 10A(2)(a)-(h) inclusive of the Local Government Act 1993, **AND** in the event that the Council or committee subsequently decides to consider and determine the matter in a meeting, or part of a meeting, that is open to the public, a copy or copies of reports and accompanying annexure relating to the matter will, as soon as practicable, be made available to the public. [LP]

### **37 DECISIONS OF THE COUNCIL [S371]**

A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council.

### **38 RESCINDING OR ALTERING [S 372]**

- (i) A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with clause 19.
- (ii) If notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion to rescind has been dealt with.
- (iii) If a motion has been negated by the Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 19.
- (iv) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council, must be signed by 3 councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- (v) If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within 3 months. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

- (vi) A motion to which this clause applies may be moved on the report of a committee of the Council and any such report must be recorded in the minutes.
- (vii) The provisions of this clause concerning negated motions do not apply to motions of adjournment.

### **39 MOTIONS OF ADJOURNMENT [LP]**

- (i) Debate shall not be permitted on any motion for adjournment of a meeting of the Council.
- (ii) If a motion for adjournment is negated, the business of the meeting shall proceed, and it shall not be in order for any councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being negated.
- (iii) A motion for adjournment may specify the time, date and place of the adjourned meeting; however, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the chairperson shall make a determination with respect to whichever of these has not been specified.

## **PART 4 - KEEPING ORDER AT MEETINGS**

### **40 QUESTIONS OF ORDER [LGGR 255]**

- (i) The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- (ii) A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- (iii) The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.
- (iv) The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

### **41 ACTS OF DISORDER [LGGR 256]**

- (i) A councillor commits an act of disorder if the councillor, at a meeting of the Council or a committee of the Council:
  - (a) contravenes the Act, any regulation in force under the Act or this code; or
  - (b) assaults or threatens to assault another councillor or person present at the meeting; or
  - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or committee, or addresses or attempts to address the Council or committee on such a motion, amendment or matter; or
  - (d) insults or makes personal reflections on or imputes improper motives to any other councillor; or

- (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or committee into contempt; or
  - (f) reads at length from any correspondence, report or other document, without the leave of the Council. **(LP)**
- (ii) The chairperson may require a councillor:
- (a) to apologise without reservation for an act of disorder referred to in subclause (i) (a) or (b); or
  - (b) to withdraw a motion or an amendment referred to in subclause (i) (c) and, where appropriate, to apologise without reservation; or
  - (c) to retract and apologise without reservation for an act of disorder referred to in subclause (i) (d) or (e).
- (iii) A councillor may, as provided by clause 65 (iii), be expelled from a meeting of the Council for having failed to comply with a requirement under clause 41(ii). The expulsion of a councillor from the meeting by reason of clause 41(ii) does not prevent any other action from being taken against the councillor for the act of disorder concerned.

#### **42 HOW DISORDER AT A MEETING MAY BE DEALT WITH [LGGR 257]**

- (i) If disorder occurs at a meeting of the Council or committee of the Council, the chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well a disorder arising from the conduct of councillors. **[LGGR 257(1)]**
- (ii) A member of the public may, as provided by subclause 65 (iii), be expelled from a meeting of the Council for engaging in or having engaged in disorderly conduct at the meeting. **[LGGR 257(2)]**
- (iii) A councillor may, as provided by subclause 65 (iii), be expelled from a meeting of the Council for engaging in or having engaged in disorderly conduct at the meeting.

#### **43 POWER TO REMOVE PERSONS FROM MEETING AFTER EXPULSION RESOLUTION [LGGR 258]**

If a councillor or a member of the public fails to leave the place where a meeting of the Council is being held:

- (i) immediately after the Council has passed a resolution expelling the councillor or member from the meeting; or
- (ii) where the Council has authorised the person presiding at the meeting to exercise the power of expulsion, immediately after being directed by the person presiding to leave the meeting,

a police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the councillor or member from that place, and, if necessary, restrain the councillor or member from re-entering that place.

## PART 5 - COUNCIL COMMITTEES

### 44 COMMITTEE OF THE WHOLE [LGGR 259 & LP]

- (i) The Council may resolve itself into a committee of the whole to consider any matter before the Council.
- (ii) All the provisions of this code relating to meetings of the Council, so far as they are applicable, extend to and govern the proceedings of a committee of the whole, except the provisions:
  - (a) limiting the number and duration of speeches; and
  - (b) requiring councillors to stand when speaking.
- (iii) The general manager or, in the absence of the general manager, an employee of the Council designated by the general manager is responsible for reporting to the Council proceedings in a committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- (iv) The Council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the Council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed.

### 45 COUNCIL MAY ESTABLISH COMMITTEES [LGGR 260]

- (i) A Council may, by resolution, establish such committees as it considers necessary.
- (ii) A committee is to consist of the mayor and such other councillors as **ARE ELECTED** by the councillors or **APPOINTED** by the Council.
- (iii) The quorum for a meeting of a committee is to be:
  - (a) such number of members as the Council decides; or
  - (b) if the Council has not decided a number - a majority of the members of the committee.

### 46 FUNCTIONS OF COMMITTEES [LGGR 261]

The Council **MUST** specify the **FUNCTIONS** of each of its committees when the committee is established, but may from time to time amend those functions. The functions of Council's two Principal committees are specified in the attached **Appendices B and C**.

### 47 NOTICE OF COMMITTEE MEETINGS TO BE GIVEN [LGGR 262]

- (i) The general manager of the Council must send to each councillor, at least 3 days before each meeting of the committee, a notice specifying:
  - (a) the time and place at which and the date on which the meeting is to be held; and
  - (b) the business proposed to be transacted at the meeting.

- (ii) However, notice of less than 3 days may be given of a committee meeting called in an emergency.
- (iii) The provisions of clause 18(i)-(iv) apply to the agenda and business papers of committee meetings in the same manner as they apply to the agenda and business papers of meetings of the Council.

#### **48 NON-MEMBERS ENTITLED TO ATTEND COMMITTEE MEETINGS [LGGR 263]**

- (i) A councillor who is not a member of a committee of a Council is entitled to attend, and to speak at, a meeting of the committee.
- (ii) However, the councillor is not entitled:
  - (a) to give notice of business for inclusion in the agenda for the meeting, or
  - (b) to move or second a motion at the meeting, or
  - (c) to vote at the meeting.

#### **49 CLOSURE OF PART OF COMMITTEE MEETING - REPRESENTATIONS BY MEMBERS OF THE PUBLIC**

- (i) The mayor or chairperson presiding at a meeting of the Council or a committee of the Council of which all the members are councillors **MAY ALLOW** members of the public to make representations as to whether a part of the meeting of the Council or a committee should be closed to the public after a motion has been moved and seconded and before the motion is put. [S10(A)(4)]
- (ii) A representation at a Council meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded. [LGGR 252(1) & LGGR 264(1)]

#### **50 COMMITTEES TO KEEP MINUTES [LGGR 266]**

- (i) Each committee of the Council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular, a committee must ensure that the following matters are recorded in the committee's minutes:
  - (a) details of each motion moved at a meeting and of any amendments moved to it,
  - (b) the names of the mover and seconder of the motion or amendment,
  - (c) whether the motion or amendment is passed or lost.
- (ii) As soon as the minutes of an earlier meeting of a committee of the Council have been confirmed at a later meeting of the committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.

#### **51 PROCEDURE IN COMMITTEES [LGGR 265]**

- (i) Subject to clause 47(iii), each committee of the Council may regulate its own procedure.

- (ii) Without limiting clause 47(i), a committee of the Council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.
- (iii) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands).

## **52 CHAIRPERSON AND DEPUTY CHAIRPERSON OF COMMITTEES [LGGR 267]**

- (i) The chairperson of each committee of the Council must be:
  - (a) the mayor; or
  - (b) if the mayor does not wish to be the chairperson of a committee - a member of the committee elected by the Council; or
  - (c) if the Council does not elect such a member - a member of the committee elected by the committee.
- (ii) The Council may elect a member of a committee of the Council as deputy chairperson of the committee. If the Council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
- (iii) If neither the chairperson nor the deputy chairperson of a committee of the Council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
- (iv) The chairperson is to preside at a meeting of a committee of the Council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.
- (v) The Councillor appointed from time to time as chairperson and deputy chairperson under clause 40 of the Local Government (Meetings) Regulation 1999 of the Council's Services and Infrastructure Committee, and Strategy and Finance Committee is authorised, pursuant to a resolution of the Council passed on 28 October 2004, to exercise the power of expulsion of a Councillor from a Committee Meeting for engaging in or have engaged in disorderly conduct at the meeting, such disorderly conduct being in the nature identified in clause 29 (2) of the Local Government (Meetings) Regulation 1999.
- (vi) The Councillor appointed from time to time as chairperson and deputy chairperson under clause 40 of the Local Government (Meetings) Regulation 1999 of the Council's Services and Infrastructure Committee and Strategy and Finance Committee is authorised, pursuant to a resolution of the Council passed on 28 October, 2004, to exercise the power of expulsion of a member of the public engaging in or have engaged in disorderly conduct at the meeting.

## **53 ABSENCE FROM COMMITTEE MEETINGS [LGGR 268]**

- (i) A member ceases to be a member of a committee if the member (other than the mayor);

- (a) has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or
  - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- (ii) Clause 53(i) does not apply if all of the members of the Council are members of the committee.

**Note:** The expression "year" means the period beginning 1 July and ending the following 30 June. See the dictionary to the Act.

#### **54 REPORTS OF COMMITTEE [LGGR 269]**

- (i) If in a report of a committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation.
- (ii) The recommendations of a committee of the Council are, in so far as adopted by the Council, resolutions of the Council.
- (iii) If a committee of the Council passes a resolution, or makes a recommendation, during a meeting, or part of a meeting, that is closed to the public, the chairperson must:
  - (a) make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended; and
  - (b) report the resolution or recommendation to the next meeting of the Council.

#### **55 DISORDER IN COMMITTEE MEETINGS [LGGR 270]**

The provisions of the Act, the Regulation and this code relating to the maintenance of order in Council meetings apply to meetings of committees of the Council in the same way as they apply to meetings of the Council.

#### **56 COMMITTEE MAY EXPEL CERTAIN PERSONS FROM ITS MEETINGS [LGGR 271]**

- (i) If a meeting or part of a meeting of a committee of the Council is closed to the public in accordance with clause 66(i), any person who is not a Councillor may be expelled from the meeting as provided by clause 65(iii) of this code.
- (ii) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council, committee nor person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place, and, if necessary, restrain that person from re-entering that place.

## **PART 6 - PECUNIARY INTERESTS**

### **57 PECUNIARY INTEREST [S 442]**

- (i) For the purposes of this part, a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided in clause 58.
- (ii) A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in clause 58.

### **58 PERSONS WHO HAVE A PECUNIARY INTEREST [S 443]**

- (i) For the purposes of this part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
  - (a) the person; or
  - (b) another person with whom the person is associated.
- (ii) A person is taken to have a pecuniary interest in a matter if:
  - (a) the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, has a pecuniary interest in the matter, or
  - (b) the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.
- (iii) However, a person is not taken to have a pecuniary interest in a matter as referred to in clause 58(ii):
  - (a) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
  - (b) just because the person is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or
  - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

### **59 INTERESTS THAT NEED NOT BE DISCLOSED [S 448]**

The following interests do not need to be disclosed for the purposes of this part:

- (a) an interest as an elector
- (b) an interest as a ratepayer or a person liable to pay a charge
- (c) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a Section of the public that includes persons who are not subject to this Part

- (d) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part
- (e) an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
- (f) an interest of a member of a Council committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee
- (g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument, other than an instrument that effects a change of permissible uses of:
  - (i) land in which the person or another person with whom the person is associated as provided in Clause 58 has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or
  - (ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i);if the person or the other person with whom the person is associated would by reason of the proprietary interest have a pecuniary interest in the proposal,
- (h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company,
- (i) an interest of a person arising from the proposed making by the Council of an agreement between the Council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership,
- (j) an interest of a person arising from the making by the Council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area:
  - (i) the performance by the Council at the expense of the relative of any work or service in connection with roads or sanitation,
  - (ii) security for damage to footpaths or roads,
  - (iii) any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council or by or under any contract,
- (k) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor),

- (l) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under **Section 252**,
- (m) an interest relating to an election to the office of Mayor arising from the fact that a fee for the following 12 months has been determined for the office of Mayor,
- (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,
- (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or member of a council committee,
- (p) an interest arising from appointment of a councillor to a body as representative or delegate of the Council, whether or not a fee or other recompense is payable to the representative or delegate.

## 60 DISCLOSURE AND PARTICIPATION IN MEETINGS

- (i) A Councillor or a member of a Council committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the interest and the nature of the interest to the meeting as soon as practicable. **[S 451(1)]**
- (ii) The general thrust of the Local Government Act 1993 is for greater transparency and accountability of the management and operation of the Council. Given the thrust of the Act, the attention of councillors, designated persons, members of staff, advisers and delegates is drawn to the following criteria to determine the extent of disclosure of the nature of the interest to the meeting necessary to observe the statutory requirements of Section 451 of the Act to satisfy the requirements of the Act for greater transparency and accountability in the management and operation of the Council:
  - The details are sufficient to enable other councillors, committee members and the public to appreciate in general terms the connection of the person with the matter under consideration.
  - The disclosure does not reveal sensitive information which is not relevant to the matter before the Council or committee.
  - The disclosure does not reveal information which may be unnecessarily damaging to the reputation of some person(s) with whom the person disclosing the interest is associated.
  - The disclosure will not unnecessarily prejudice a sensitive commercial or legal situation.
- (iii) A general notice given to the General Manager in writing by a councillor or a member of a Council committee to the effect that the councillor or member, or the councillor's or member's spouse, de facto partner or relative, is:
  - (a) a member, or in the employment, of a specified company or other body; or
  - (b) a partner, or in the employment, of a specified person,

is, unless and until the notice is withdrawn, sufficient disclosure of the councillor's or member's interest in a matter relating to the specified company,

body or person that may be the subject of consideration by the Council or Council committee after the date of the notice. [S 454]

- (iv) The councillor or member must not be present at, or in sight of, the meeting of the council or committee:
  - (a) at any time during which the matter is being considered or discussed by the Council or committee, or [S 451(2)(a)]
  - (b) at any time during which the Council or committee is voting on any question in relation to the matter. [S 451(2)(b)]
- (v) This clause does not prevent a person from taking part in the consideration or discussion of, or from voting on, any question as provided for in clause 59.
- (vi) A person who, at the request or with the consent of the Council or a Council Committee, gives advice on any matter at any meeting of the Council or Committee must disclose the pecuniary interest and the nature of any pecuniary interest that the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser. [S 447 & 456]
- (vii) A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest. [S 457]

## **61 DISCLOSURES TO BE RECORDED [ S 453]**

A disclosure made at a meeting of the Council or Council Committee must be recorded in the minutes of the meeting.

## **62 POWERS OF THE MINISTER IN RELATION TO MEETINGS [S 458]**

The Minister may, conditionally or unconditionally, allow a councillor or a member of a Council Committee who has a pecuniary interest in a matter with which the Council is concerned to be present at a meeting of the Council or committee to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- (a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business; or
- (b) that it is in the interests of the electors of the area to do so.

## **PART 7 - CONFLICT OF INTEREST**

### **63 CONFLICT OF INTEREST**

- (i) A Councillor, member of staff, delegate and member of a Council committee must avoid and appropriately resolve any conflict or incompatibility between his or her private or personal interest and the impartial performance of his or her public or professional duties.
- (ii) A "conflict of interest" is a private or personal interest (perceived or real) which does not relate to money (financial gain or loss) and arises out of kinship, friendship, membership of an association, society or trade union, or involvement or interest in an activity which could influence the capacity of a councillor,

member of staff, delegate or a member of a Council committee to perform their public or professional duties impartially.

- (iii) The mere fact that a person has both a public or professional duty and a private or personal interest in relation to a particular matter does not necessarily mean that the two must be in conflict. What is important is how any conflict of interest, if it exists, is dealt with and the public perception of the way the person deals with any such conflict of interest. A person with a “conflict of interest” should not do anything which he or she could not justify to the public and should avoid any occasion of reasonable suspicion or the appearance of improper conduct or the partial performance of his or her public or professional duties. Unlike a “pecuniary interest”, a perceived or real “conflict of interest” need not mean automatic or complete exclusion from participation in the discussion and decision making. The onus is on the councillor, member of staff, delegate or member of a Council committee to determine the nature of the interest and decide whether it could influence the capacity of the person to perform their public or professional duties impartially.
- (iv) A conflict of interest arises if it is likely that the person with the private or personal interest (perceived or real) could be prejudicially influenced in the performance of his or her public or professional duties by that interest, or that a reasonable person would believe that the person could be so influenced.
- (v) Where the interest in question is a “pecuniary interest”, the person with the interest must comply with **Part 2 of Chapter 14** of the Local Government Act 1993.
- (vi) Where a conflict of interest (perceived or real) exists, and where practicable, the onus is on the councillor, member of staff, delegate and member of a Council committee to disclose the conflict of interest and the nature of the interest in writing to the Council, the Mayor or the General Manager, as appropriate.
- (vii) Where a conflict of interest (perceived or real) arises in respect of a matter during a meeting of the Council or Council committee, the councillor, delegate or member of a Council committee should disclose to the meeting the conflict of interest and the nature of the interest. Depending on the nature of the conflict of interest, the person should then decide whether or not they will participate in consideration of or voting on the matter
- (viii) Where the person discloses a conflict of interest and decides not to take part in consideration of or voting on the matter due to the nature of the conflict of interest, it is necessary for the person to leave the Council Chamber or committee meeting room at the time the vote is taken. Otherwise, the person will be taken to have voted in the negative.
- (ix) The disclosure of the conflict of interest will be recorded in the minutes of the Council or Council committee meeting and a record of the disclosure of the conflict of interest will be kept by the Council..
- (x) A councillor, member of staff, delegate or a member of a Council committee is encouraged to err on the side of caution by disclosing a conflict of interest and by not participating in discussion or in decision making if there is any doubt. If the person is aware in advance of a possible conflict of interest, or where the person is unsure whether a conflict of interest exists, the person is encouraged to seek legal or other appropriate advice and act accordingly. In some circumstances, it may be appropriate for the Council to obtain legal advice on the person’s behalf.

## PART 8 - PUBLIC

### 64 PUBLIC NOTICE OF MEETINGS [S 9]

- (i) The Council must give notice to the public of the times, dates and places of its meetings and meetings of those of its committees of which all the members are councillors. [S 9(1)]
- (ii) A notice of a meeting of the Council or committee meeting must be published in a newspaper circulating in the area before the meeting takes place. [LGGR 232(2)]
- (iii) The notice must specify the time and place of the meeting. [LGGR 232(3)]
- (iv) Notice of more than one meeting may be given in the same notice. [LGGR 232(4)]
- (v) Clause (ii) does not apply to an extraordinary meeting of the Council or a committee of the Council. [LGGR 232(5)]
- (vi) The Council and each such committee must have available for the public at its offices and at each meeting copies (for inspection and taking away by persons) of the agenda and associated business papers (such as correspondence and reports) for the meeting. [S 9(2)]
- (vii) In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public:
  - (a) the agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item), and
  - (b) the requirements of clause (vi) with respect to the availability of business papers do not apply to the business papers for that item of business. [S 9(2A)]
- (viii) The copies are to be available free of charge. [S 9(4)]
- (ix) The copies are to be available to the public as nearly as possible to the time that they are available to councillors. [S 9(3)]
- (x) A notice given under this clause or a copy of an agenda or of a business paper made available under this clause may in addition be given or made available in electronic form. [S 9(5)]

### 65 ATTENDANCE AT COUNCIL ORDINARY, EXTRAORDINARY AND COMMITTEE MEETINGS

- (i) Everyone is entitled to attend Ordinary Council Meetings, Extraordinary Council Meetings and meetings of the Council's Principal Committees of which all the members are councillors, except as provided by this clause. [S10 (1) (a)]
- (ii) The Council must ensure that all meetings of the Council and of such committees are open to the public. [S10(1)(b)]
- (iii) A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or of such a committee if expelled from the meeting:

- (a) by a resolution of the meeting, or
- (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion. [S10(2)]
- (iv) A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations. [S10(3)]
- (v) Council's Principal Committees comprise the following:
- Services and Infrastructure Committee
  - Strategy and Finance Committee.
- (vi) The first 30 minutes of meetings of Ordinary Council Meetings, Extraordinary Council Meetings and meetings of the Council's Principal Committees are available for members of the public to address the Council or Principal Committee or submit questions, either verbally or in writing, on matters included in the Business Paper. Members of the public will be permitted a maximum of 3 minutes to address the Council or Principal Committee. An extension of time may be granted if deemed necessary by the Council or Principal Committee.
- (vii) Members of the public will not be permitted to use Community Consultation for the purpose of abusing, vilifying, insulting, threatening, intimidating or harassing Councillors, Council staff or other members of the public. Conduct of this nature will be deemed to be an act of disorder and the person engaging in such behaviour will be ruled out of order by the Mayor or Principal Committee Chairperson and may be expelled from the Council or Committee Meeting.
- (viii) Members of the public will not be permitted to raise matters or provide information which involve:
- personnel matters concerning particular individuals;
  - personal hardship of any resident or ratepayer;
  - information that would, if disclosed confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business;
  - commercial information of a confidential nature that would, if disclosed:
    - prejudice the commercial position of the person who supplied it, or
    - confer a commercial advantage on a competitor of the Council, or
    - reveal a trade secret;
  - information that would, if disclosed prejudice the maintenance of law;
  - matters affecting the security of the Council, Councillors, Council staff or Council property;
  - advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege;
  - on balance, be contrary to the public interest.

- (ix) Members of the public addressing the Principal Committee, Ordinary Council Meeting and Extraordinary Council Meeting will be sound recorded. When addressing the Council or Principal Committee, members of the public will be asked to state their name and the nature of their address for the record. **[LP]**
- (x) Members of the public wishing to address the Council, Extraordinary or Principal Committee Meetings are requested to contact Council prior to 12 noon on the day of the meeting and register their intention to address the Council or Principal Committee Meeting. **[LP]**

## 66 GROUNDS FOR CLOSURE OF A MEETING TO THE PUBLIC

- (i) The council or a committee of the council which all the members are councillors, may close to the public so much of its meeting as comprises the discussion of any the following matters, or the receipt or discussion of any of the following information:
  - (a) personnel matters concerning particular individuals other than Councillors;
  - (b) personal hardship of any resident or ratepayer;
  - (c) information that would, if disclosed confer a commercial advantage on a person with whom council is conducting (or proposes to conduct) business;
  - (d) commercial information of a confidential nature that would, if disclosed:
    - prejudice the commercial position of the person who supplied it, or
    - confer a commercial advantage on a competitor of the council, or
    - reveal a trade secret;
  - (e) information that would, if disclosed prejudice the maintenance of law;
  - (f) matters affecting the security of the council, councillors, council staff or council property;
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege;
  - (h) during the receipt of information or discussion of information concerning the nature and location of a place or an item of Aboriginal significance on community land. **[S10A (1) and S 10A(2)]**
- (ii) The council, or a committee of the council of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public. **[S 10A(3)]**
- (iii) A meeting of the council or a committee is not to remain closed to the public during the discussion of anything referred to in clause 66 (i):
  - (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
  - (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret-unless the council or committee concerned is

satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest. [S 10B(1)]

- (iv) A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 66 (i) (g) unless the legal advice concerns legal matters that:
  - (a) are substantial issues relating to a matter in which the council or committee is involved, and
  - (b) are clearly identified in the advice, and
  - (c) are fully discussed in that advice. [S10B(2)]
- (v) If a meeting is closed to the public during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 66 (ii)), the consideration of the motion must not include any consideration of the matter of information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in clause 66 (i)). [S 10B(3)]
- (vi) For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
  - (a) a person may misinterpret or misunderstand the discussion, or
  - (b) the discussion of the matter may:
    - cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
    - cause a loss of confidence in the council or committee. [S 10B(4)]
- (vii) In deciding whether a part of a meeting is to be closed to the public, the council or committee concerned must have regard to any relevant guidelines issued by the Director-General of the Department of Local Government. [S 10B(5)]
- (viii) Part of a meeting of the council, or of a committee of the council of which all the members are councillors, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting as a matter that is likely to be considered when the meeting is closed, but only if:
  - (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 66 (i), and
  - (b) the council or committee, after considering any representations made under clause 67 (i), resolves that further discussion of the matter:
    - should not be deferred (because of the urgency of the matter), and
    - should take place in a part of the meeting that is closed to the public. [S 10C]
- (ix) The grounds on which part of a meeting is closed to the public must be stated in the decision (resolution) to close that part of the meeting and must be recorded in the minutes of the meeting. [S 10D(1)]
- (x) The grounds on which part of a meeting is closed to the public must specify:

- (a) the relevant ground or grounds identified in clause 66(i),
  - (b) the matter that is to be discussed during the closed part of the meeting,
  - (c) the reasons why part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which the discussion of the matter in an open meeting would be, on balance, contrary to the public interest. [S10D (2)]
- (xi) Nothing in this clause prevents any limitation being placed on the number of members of the public admitted to a meeting of the council or a committee of the council, provided such limitation is for reason of safety or security.

#### **67 CLOSURE OF PART OF MEETING - REPRESENTATIONS BY MEMBERS OF THE PUBLIC**

- (i) A council or a committee of the council, may allow members of the public to make representations to or at a council or Principal committee meeting, before the meeting is closed to the public, as to whether that part of the meeting should be closed to the public. [S 10A(4)]
- (ii) A representation at a council meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded. [LGGR 252(1)]
- (iii) The mayor or chairperson presiding at a meeting of the council or a committee of the council of which all the members are councillors may invite representations from members of the public in attendance at the meeting as to whether a part of the meeting of the council or a committee should be closed to the public after a motion has been moved and seconded and before the motion is put. [LP]

#### **68 PUBLIC ACCESS TO CORRESPONDENCE AND REPORTS [S 11]**

- (i) The council and a committee of which all the members are councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- (ii) This clause does not apply if the correspondence or reports:
  - (a) relate to a matter that was received or discussed; or
  - (b) were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.
- (iii) This clause does not apply if the council or council committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in Clause 66(i) of this code, are to be treated as confidential.

## PART 9 - MISCELLANEOUS

### 69 INFORMATION RELATING TO PROCEEDINGS AT CLOSED MEETINGS NOT TO BE DISCLOSED

- (i) A person must not disclose any information obtained in connection with the administration or execution of the Local Government Act 1993 unless that disclosure is made:
  - (a) with the consent of the person from whom the information was obtained; or
  - (b) in connection with the administration or execution of the Local Government Act 1993; or
  - (c) for the purposes of any legal proceedings arising out of the Local Government Act 1993 or of any report of any such proceedings; or
  - (d) in accordance with a requirement imposed under the Ombudsman Act 1974 or the Freedom of Information Act 1989; or
  - (e) with other lawful excuse. [S 664(1)]
- (ii) If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with clause 66(i), a person must not, without the authority of the council or the committee, disclose, otherwise than to the council or to a councillor, information with respect to the discussion at, or the business of, the meeting. [S 664(1A)]
- (iii) Subclause (ii) does not apply to:
  - (a) to the report of a committee of the council when presented to the council; or
  - (b) disclosure made in any of the circumstances referred to in subclause (i); or
  - (c) disclosure made in circumstances prescribed by the regulations. S664(1B)]
- (iv) For the purpose of clause 69 (iii) (c), any disclosure made with the intention of enabling the Minister or the Director-General to properly exercise the functions conferred or imposed on them by or under the Local Government Act 1993 is a prescribed circumstance. [LGGR 266]

### 70 INSPECTION OF THE MINUTES OF THE COUNCIL OR A COMMITTEE [LGGR 272]

- (i) An inspection of the minutes of the council or committee of the council is to be carried out under the supervision of the general manager or an employee of the council designated by the general manager to supervise inspections of those minutes.
- (ii) The general manager must ensure that the minutes of the council and any minutes of a committee of the council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

**Note:** Section 12 of the Act confers a right to inspect the minutes of a council or committee of a council.

## **71 AUDIO RECORDING OF MEETING OF THE COUNCIL OR A COMMITTEE PROHIBITED WITHOUT PERMISSION [LGGR 273]**

- (i) A person may use a tape recorder to record the proceedings of a meeting of the council or a committee of a council only with the authority of the council or committee.
- (ii) A person may, as provided by clause 65(iii), be expelled from a meeting of the council or a committee of the council for using or having used a tape recorder in contravention of this clause.
- (iii) If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the council for the purpose, may remove the person from, and, if necessary, restrain the person from re-entering, that place.
- (iv) In this clause, tape recorder includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

## **72 PHOTOGRAPHIC AND AUDIO VISUAL RECORDING OR COUNCIL AND COMMITTEE MEETINGS**

- (i) Accredited representatives of the following electronic and print media are permitted to take still photographs and make audio visual recordings of Council and Committee Meetings.

### ***Electronic***

Prime Television  
 NBN Television  
 Ten Television  
 Radio Station AM Band 2TM  
 AM & FM Band ABC Radio  
 Radio Station FM Band 2YOUFM  
 Radio Station FM Band 92.9

### ***Print***

Northern Daily Leader  
 Tamworth Times  
 Tamworth Independent  
 North West Magazine  
 Manilla Express  
 Barraba Gazette  
 Quirindi Advocate

- (ii) Still photographs, audio visual recordings will be permitted from accredited media representatives subject to such media representative not interfering with or impeding the progress or proceedings of any Council or Committee meeting.
- (iii) Accredited representatives of the Media are required to follow the instructions of the General Manager.

- (iv) The Mayor and General Manager reserve the right to prevent the taking of still photographs, audiovisual recordings if in the circumstances it would be inappropriate.

### **73 COUNCIL SEAL [LGGR 400]**

- (i) The seal of a council must be kept by the mayor or the general manager, as the council determines.
- (ii) The seal of a council may be affixed to a document only in the presence of:
  - (a) the mayor and the general manager; or
  - (b) at least 1 councillor (other than the mayor) and the general manager; or
  - (c) the mayor and at least 1 other councillor; or
  - (d) at least 2 councillors other than the mayor.
- (iii) The affixing of a council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in sub clause (ii) attest by their signatures that the seal was affixed in their presence.
- (iv) The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.
- (v) For the purpose of clause 72 (iv), a document in the nature of a reference or certificate of service for an employee of the council does not relate to the business of the council.

### **74 CERTAIN CIRCUMSTANCES DO NOT INVALIDATE COUNCIL DECISIONS [S 374]**

Proceedings at a meeting of the council or a council committee are not invalidated because of:

- (i) a vacancy in a civic office; or
- (ii) a failure to give notice of the meeting to any councillor or a committee member; or
- (iii) any defect in the election or appointment of a councillor or a committee member; or
- (iv) a failure of a councillor or a committee member to disclose a pecuniary interest at a council or a committee meeting; or
- (v) a failure to comply with this code.

### **75 COMMITTEE OF COUNCIL [S 373]**

The council may resolve itself into a committee to consider any matter before the council.

**76 AMENDMENT OF CODE**

This code may be amended only in accordance with the provisions of **Division 1 of Part 2 of Chapter 12 of the Act.**

## **SCHEDULE**

### **General Order of Business**

1. Prayer
2. Apologies
3. Community Consultation/Presentations
4. Confirmation of Minutes of Previous Meetings
5. Mayoral Minute
6. Notice of Motion
7. Notice of Motion of Rescission
8. Open Reports
9. Reports from Delegates
10. Questions and Matters of Urgency
11. Closed Council