

# BLAND SHIRE COUNCIL



*People Pride Progress*

# CODE OF MEETING PRACTICE

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**PART 1 - PRELIMINARY****Citation and Aim**

1. This Code may be cited as the Bland Shire Council Code of Meeting Practice

The aim of this Code is to achieve:-

- a. Council and Committee meetings which are orderly, efficient and earn the respect of the community.
- b. Council and Committee meetings which display open government and allow access and participation by the community.
- c. Standards which promote and contribute to the democratic process.

This Code shall apply to the conduct of all meetings of Council and any committee of Council of which all the members are Councillors; and shall, where applicable, be applied to meetings of committees of Council of which some members are Councillors and other members are not.

This Code has been adopted by the Council of Bland, and where any powers or functions of the Mayor or General Manager are not specifically authorised under the Act, the Council of Bland hereby delegates such powers and functions under Section 377 of the Act.

Councillors and Council Officers are to recommit to this Code on an ongoing basis by signing and acknowledging same every 12 months.

**Definitions**

2. (1) In this Code:

**Amendment**, in relation to an original motion, means a motion moving amendment to that motion; R3

**Chairperson,**

- (a) in relation to a meeting of the Council - means the person presiding at the meeting as provided by clause 12 of this Code; and
- (b) in relation to a meeting of a Committee - means the person presiding at the meeting as provided by clause 50 of this Code; R3

**Committee** means a committee appointed or elected by the Council in accordance with clause 42 or the Council when it has resolved itself into a Committee of the Whole. (see clause 41) R3

**Council** means the Council of Bland

**Member** means a Councillor or a person other than a Councillor who is part of a committee of Council.

**Present** (at a meeting or discussion) means being within the Council Chambers during the meeting or discussion, as the case may be.

**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;

**Relative**, in relation to a person, means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;
- (b) the spouse or the de facto partner of the person or of a person referred to in paragraph (a). LGA Act Dictionary

**the Act** means the Local Government Act 1993; R3

**the Code** means the Bland Shire Council Code of Meeting Practice; and

**the Regulation** means the Local Government (Meetings) Regulation 1999.

- (2) Expressions used in this Code which are defined in the dictionary at the end of the Act have the meanings as set out in the dictionary. (LGA Act Dictionary)

### **Act and Regulation**

3. (1) This Code is made pursuant to section 360(2) of the Act.
- (2) It incorporates relevant provisions of the Regulation and the Act.
- (3) 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) prevails to the extent of the inconsistency.

### **Notes**

4. (1) Notes in the text of this Code are explanatory notes and do not form part of this Code. They are provided to assist understanding or to indicate supplementary or explanatory information.
- (2) Legislative references are shown in the following manner:  
  
S345 - Section 345 Local Government Act; 1993  
R3 - Clause 3 Local Government (Meetings) Regulation, 1999
- (3) The omission of any such reference indicates that the item is a non statutory or discretionary provision.

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

**Frequency of meetings of the Council**

5. (1) The Council is required to meet at least 10 times each year, each time in a different month. S365
- (2) The Council shall at a meeting held in September each year, by resolution, set the time, date and place of ordinary meetings of the Council.
- (3) The dates and times for the Ordinary meeting of Council are currently adopted as being the third Tuesday of each month, commencing at 6.30 p.m to be held in the Council Chambers, West Wyalong.
- (4) Council may hold one Ordinary meeting per year within a town or village of the Shire other than at the Council Chambers in West Wyalong. Such meetings may be on a rotational basis as determined by Council.
- (5) Meetings of committees, other than the committee of the whole, may be held at places and times as determined by Council, provided that in absence of a determination to the contrary, all such meetings shall be held in the Council Chambers, West Wyalong.

**Extraordinary meetings**

6. (1) 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 days after receipt of the request. S366
- (2) If the Mayor refuses or delays to call an extraordinary meeting after receiving a requisition signed by at least two Councillors, such members may in writing request the General Manager to call such meeting, and shall at the same time state the object thereof. The General Manager shall thereupon call such a meeting.
- (3) The General Manager must ensure that the business paper for an extraordinary meeting of Council deals with only matters stated in the notice of meeting.
- (4) Despite sub-clause (3), business may be transacted at an extraordinary meeting of Council even though due notice of the business has not been given to Councillors. However, this can happen only if: -
- (i) A motion is passed to have the business transacted at the meeting; and
- (ii) 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.

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

- (5) Despite clause 30 of this Code, only the mover of a motion referred to in sub-clause (4) can speak to the motion before it is put.
- (6) Extraordinary meetings of Council shall be held in the Council Chambers, West Wyalong.

### **Notice of meetings**

7. (1) 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. S367(1)
- (2) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency. S367(2)
- (3) The Notice of Ordinary and Extraordinary meetings of Council shall be given by letter posted or delivered to each Councillor, unless in the case an extraordinary meeting, when shorter notice may be inevitable and in such case, by telephone or immediate post.
- (4) A Notice under this section and the agenda for, and the business papers relating to the meeting may be given to a Councillor in electronic form but only if all Councillors have facilities to access the notice, agenda and business papers in that form. S367(3)

### **Quorum**

8. 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. S368

### **What happens when a quorum is not present**

9. (1) 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.
- (2) 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.



- (3) 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. R6 (1)-(3)
- (4) The meeting may be resumed at any time within 30 minutes of the meeting lapsing. If a quorum is not present after 30 minutes of the meeting lapsing, the meeting is to be adjourned in accordance with Clause 9(2).
- (5) If the meeting is to resume on another day any decisions of Council prior to the lapsing of the meeting are to be acted upon by Council officers. The outstanding matters are to be resubmitted to the adjourned meeting for determination.

### **Presence at Council meetings**

10. (1) A Councillor cannot participate in a meeting of the Council unless personally present at the meeting. R8
- (2) Wherever possible a Councillor shall submit an apology for non-attendance at any Council or Committee meeting.
- (3) Apologies may be communicated verbally to the Mayor, meeting Chairperson, another Councillor or General Manager.
- (4) Should a Councillor know of a period of pending absence from meetings due to ill health, business, annual leave or the like, a request for leave of absence stating the period of absence is to be submitted to Council for approval.
- (5) A Councillors position is declared vacant if that Councillor is absent from three (3) consecutive Ordinary Meetings of the Council, without prior leave of the Council unless that Councillor is absent because he or she has been suspended from office under Section 482 of the Act. S234(d).

### **11. Attendance of General Manager at meetings**

- (1) The General Manager is entitled to attend, but not to vote at, a meeting of the Council or a meeting of a Committee of the Council of which all the members are Councillors.
- (2) The General Manager is entitled to attend a meeting of any other Committee of the Council and may, if a member of the Committee, exercise a vote.
- (3) However, the General Manager may be excluded from a meeting of the Council or a Committee while the Council or Committee deals with a matter relating to the standard of performance of the General Manager or the terms of the employment of the General Manager. S376(1)-(3)

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

**Chairperson of Council meetings**

12. (1) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor presides at meetings of the Council.
- (2) 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.  
S369(1)-(2)
- (3) 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.
- (4) 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
- (5) If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, and the chairperson is to be the candidate whose name is chosen by lot.
- (6) For purposes of subclause (5), 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 from being seen, mix the slips and draw one of the slips at random.
- (7) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.  
R9 (1) - (5)

**Chairperson to have precedence**

13. When the chairperson rises (or speaks) during a meeting of the Council:
- (a) any Councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat; and
- (b) every Councillor present must be silent to enable the chairperson to be heard without interruption.  
R10

*NOTE: It has been traditional for the Chairperson of this Council not to stand when speaking. Whilst the Clause of the Regulation states 'rises', the practical effect of this is that when the Chairperson speaks, then precedence is taken over all other Councillors.*

#### **Chairperson's duty with respect to motions**

14. (1) 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.
- (2) The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- (3) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected. R11

*NOTE: This Clause is subject to Clause 26 regarding motions of dissent.*

#### **Minutes**

15. (1) The Council must ensure that full and accurate minutes are kept of proceedings of a meeting of the Council. S375(1)
- (2) Minutes may be confirmed at an ordinary or extraordinary meeting of the Council.
- (3) A motion or discussion with respect to the confirmation of such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.
- (4) The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at the subsequent meeting. S375(2)
- (5) Every entry in the minutes of the business transacted at a meeting of the Council and purporting to be signed by the person presiding at a subsequent meeting of the Council is, until the contrary is proved, evidence:
- (a) that the business as recorded in the minutes was transacted at the meeting; and
- (b) that the meeting was duly convened and held. S703

#### **Matters to be included in minutes of Council meeting**

16. The General Manager must ensure that the following matters are recorded in the Council's minutes:

- 
- (a) details of each motion moved at a Council 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. R27

*NOTE: Section 375(1) of the Act requires a Council to ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council (other provisions of this Regulation and of the Act require particular matters to be recorded in a Council's minutes).*

### **Order of business**

- 17. (1) At a meeting of the Council (other than an extraordinary meeting), the general order of business is to be as fixed by Clause 17 (4), of the Code. R12(1)
- (2) The order of business fixed under subclause (1) may be altered if a motion to that effect is carried. Such a motion can be moved without notice.
- (3) Despite clause 30, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put. R12 (2)-(3)
- (4) The order of business currently adopted by Council for Ordinary meetings is as follows:
  - 1) Prayer
  - 2) Confirmation of Minutes
  - 3) Apologies
  - 4) Declarations of Interest
  - 5) Public Forum
  - 6) Mayoral Minute
  - 7) Notices of Motion
  - 8) Meeting of the "Committee of the Whole"
  - 9) Recommendations of the "Committee of the Whole"
  - 10) Delegates Reports
  - 11) Staff Reports
  - 12) Committee Reports
  - 13) Correspondence
  - 14) Urgent Business Without Notice \*
  - 15) Questions and Statements
  - A. Matters to be dealt with arising out of the proceedings of former meetings of the Council.
  - B. Other matters.

\* Matters must be of an urgent nature that has come to light in the 3 days prior to the meeting. The Mayor has the sole discretion on whether to accept and include the matter on the Agenda for the meeting.

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**Agenda and business papers for Council meetings**

18. (1) 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 business paper is prepared, to put to the meeting and
  - (c) any business of which due notice has been given.
- (2) 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.
- (3) The General Manager must cause the Agenda for a meeting of the Council or a Committee of the Council to be prepared as soon as practicable before the meeting.
- (4) A summary of supplementary correspondence shall be prepared and tabled at each meeting, and shall only be dealt with by a special resolution of Council.
- (5) All reports of Committees or servants are to form part of the minutes of the Council meeting whether adopted in their entirety or not.
- (5) If, in the opinion of the General Manager, business to be transacted at a meeting of the Council is a kind of business referred to in clause 64(1), the business may be included in a confidential business paper. All other business to be transacted at the meeting must be included in an ordinary business paper.
- (6) No correspondence shall be dealt with by Council unless ruled of an urgent nature by the Mayor and then only by special resolution of the Council.
- (7) No other reports from servants shall be presented unless of an urgent nature and then only with the permission of the General Manager, and such reports shall be dealt with only if ruled to be of an urgent nature by the Mayor and then only by a special resolution of Council.
- (8) If a confidential business paper is prepared for a kind of business referred to in clause 64(1), the business must be referred to in the ordinary business paper prepared for the same meeting.
- (9) Nothing in this clause limits the powers of the chairperson under clause 21.

R13 (1)-(5)

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**Giving notice of business**

19. (1) The Council must not transact business at a meeting of the Council:
- (a) unless a Councillor (or Councillors) has given notice of the business to the General Manager by 5.00 p.m. at least eight (8) days prior to the meeting (i.e. in the case of an Ordinary meeting, the Monday of the week preceding the week in which the meeting day falls). This is to allow a complete business paper to be forwarded to each Councillor on the Thursday prior to the meeting.
  - (b) Unless notice of business has been sent to the Councillors at least 3 days before the meeting, however, in the event of an extraordinary meeting called in an emergency, notice of less than 3 days may be given.

S367, R14 (1)
  - (c) The times specified in (a) may be varied by resolution of Council.
  - (d) Notice of business from Councillors is to be received in a typed, or neatly hand written format at least eight (8) days prior to the meeting.
  - (e) A notice of business from a Councillor in the form of a Notice of Motion is to be submitted in the format adopted by Council and which is set out in Attachment No. 1.
- (2) Subclause (1) 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 12 (3); 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.
  - (e) reports from officers placed on the business paper pursuant to a decision of a committee that additional information be provided to the Council for consideration in conjunction with the report of a Committee.
- (3) Despite subclause (1), business may be transacted at a meeting of the Council when due notice of the business has not been given to Councillors, but 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 an urgent nature.

Such a motion can be moved without notice.

- (4) Despite clause 30, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put. R14 (2)-(4)

*NOTE: The business paper for any Council or Committee meeting shall comprise those matters which require a determination by Council under any Act or in accordance with Council's policy.*

*Matters may appear on the business paper by: -*

- 1. Notice of Motion submitted by a Councillor; or .*
- 2. A Councillor requesting the General Manager to include an item; or*
- 3. A Council resolution passed at a previous meeting.*

*The General Manager is responsible for determining those matters to be submitted to a Council/Committee meeting.*

*Councillors who wish to submit matters for listing on a Business Paper should submit the item to the General Manager before the closing time specified in Clause 19(1)(a) or (d). Items received after that time will be included in the next business paper.*

### **Agenda for extraordinary meeting**

20. (1) 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.
- (2) Despite subclause (1), business may be transacted at an extraordinary meeting of 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 proposed to be brought forward is ruled by the chairperson to be of an urgent nature.

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

- (3) Despite clause 30, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put. R15 (1) - (3)

**Official minutes** (*Mayoral Minutes*)

21. (1) If the Mayor is the chairperson at a meeting of the 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.
- (2) Such a minute, when put to the meeting, takes precedence over all business on the Council's business paper for the meeting. The chairperson (but only if the chairperson is the Mayor) may move the adoption of the minute without the motion being seconded.
- (3) A recommendation made in a minute of the chairperson (being the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council. R16 (1) - (3)

*NOTE: Minutes submitted by the Deputy Mayor, when acting for the Mayor, require a seconder.*

**Report of a Departmental representative to be tabled at Council meeting**

22. When a report of a Departmental 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:
- (a) is laid on the table at that meeting; and
- (b) is subsequently available for the information of Councillors and members of the public at all reasonable times. R17

*NOTE: A Departmental Representative being a person appointed Director General of the Department of Local Government to investigate any aspect of Council and its activity in accordance with S430(1)-(4)*

**Notice of motion - absence of mover**

23. In the absence of a Councillor who has placed a notice of motion on the business paper for a meeting of the Council:
- (a) any other Councillor may move the motion at the meeting; or
- (b) the chairperson may defer the motion until the next meeting of the Council at which the motion can be considered. R18

**Motions to be seconded**

24. A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clauses 21(2) and 30(5). R19



**How subsequent amendments may be moved**

25. (1) If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the Council at any one time. R20
- (2) 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.
- (3) When the vote on the amendment has been taken, debate is resumed on the motion either in the original form (if the amendment was defeated) or in the amended form (if the amendment was carried).

**Motions of dissent**

26. (1) 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.
- (2) 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 (suspended) motion or business to the business paper and proceed with it in due course.
- (3) 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. R21(1)-(3)

**Public Forum**

27. Members of the public shall have the opportunity to address Council on any local government issue at the commencement of the Council meeting. The following procedures shall apply in relation to the Public Forum: -
- (1) Persons interested in addressing Council are to be in the meeting room 15 minutes prior to the commencement of the meeting and must convey to the General Manager their wish to address Council and on what particular issue.
- (2) Addresses are to be for a maximum of three (3) minutes in length with the total time allowed for open forum session being 15 minutes.
- (3) Should there be more than one person wishing to address Council on an issue, then those persons are to nominate one person to represent the group (only applies on those occasions where the total group time would exceed 15 minutes).

- (4) The Chairperson may ask staff to comment on an issue, or if investigation is required, a report to a subsequent meeting may be required.
- (5) No motions or resolutions are moved during open forum time.
- (6) Questions are directed to the Chairperson who only shall respond, however, staff may be requested by the Chairperson to respond on his/her behalf.
- (7) If no person is in the gallery at the starting time of the meeting who wishes to address the meeting, the next item on the Agenda is proceeded with.
- (8) Written material submitted during the open forum session is to be tabled only and used for a subsequent report if necessary.
- (9) Open forums to be publicly advertised in conjunction with the Council meeting notice.
- (10) Any person making use of the open forum is required to observe the same standards required of a Councillor. Specifically, he or she shall: -
  - (a) obey the directions of the Chairperson; and
  - (b) not use any behaviour or language inconsistent with good order and decorum; and
  - (c) not make personal reflections or impute improper motives to Councillors and staff.

### **Mode of address**

28. (a) Councillors shall at all times address other Councillors by their official designation, as Mayor or Councillor, as the case may be.
  - (b) With the exception of the chairperson, a member shall (except when prevented by bodily infirmity) rise in his/her place and stand while speaking for or against a motion. Councillors will remain seated at other times.
  - (c) The chairperson, in his/her absolute discretion, may permit waiver of the requirement of sub-clause (b) provided that all members present at the meeting are given prior advice of such waiver.

Correspondence with the Council shall be addressed to the mayor or the general manager and letters shall not be presented or read by Councillors at meetings of the Council. Complaints about Council staff shall not be considered by Council unless made in writing.

### **Questions may be put to Councillors and Council employees**

29. (1) A Councillor:
  - (a) may, through the chairperson, put a question to another Councillor; and

- (b) may, through the General Manager, put a question to a Council employee.
- (2) 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.
- (3) A Councillor must put every such question directly, succinctly, and without argument.
- (4) 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. R22(1)-(4)

### **Limitation as to number of speeches**

- 30. (1) 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.
- (2) 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 it.
- (3) 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.
- (4) Despite sub-clauses (1) and (2), a Councillor may move that a motion or an amendment be now 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 it.
- (5) The chairperson must immediately put to the vote, without debate, a motion moved under sub-clause (4). A seconder is not required for such a motion.
- (6) 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 to reply under sub-clause (1).

- (7) 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. R23 (1)-(7)
- (8) The General Manager shall have the same right as a Councillor to speak on motions but shall not have any right to vote, except as a member of a committee as provided by section 376 of the Act.

### **Voting at Council meetings**

31. (1) Each Councillor is entitled to one vote.
- (2) However, the chairperson presiding at a meeting of the Council has, in the event of an equality of votes, a second or casting vote. S370 (1) - (2)
- (3) 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 sub-clause does not apply to a Councillor who does not vote because he or she has a pecuniary interest in the subject matter of the motion. R24 (1)

*NOTE: This provision also applies to the chairperson.*

- (4) 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. R24 (2)
- (5) 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. R24 (3)
- (6) 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. R24 (4)
- (7) 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. R24 (5)

*NOTE: The Local Government (Elections) Regulation 1998 provides that a Council is to resolve whether an election by the Councillors for 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.*

**Decisions of the Council**

32. 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. S371

**Recommitted Items**

33. Prior to the conclusion of a meeting a Councillor may move that an item which was previously determined at the meeting, be recommitted for further consideration but only if all Councillors are present, that were present when the original motion was considered and adopted as a resolution of Council.

Such a motion needs to be seconded. If the motion for recommittal is carried, the previous decision is nullified and the matter is then open for reconsideration. Clauses 30 and 31 would again apply.

**Rescinding or altering resolutions**

34. (1) 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(1)(a) S372(1)

*NOTE: See also clauses 34(5) and 34(7).*

- (2) If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice also should be given of the proposed further motion.
- (3) If a notice of motion to rescind a resolution is given:
- (a) at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with; or S372(2)
- (b) at any time after the close of the meeting at which the resolution is carried, no further action to carry the resolution into effect is to be taken after receipt of the notice of motion until that motion of rescission has been dealt with.

*NOTE: If the resolution has already been put into effect, the Rescission Notice must be ruled out of order by the chairperson unless it is a resolution capable of rescission and the possible effects of rescission have been reported to Council.*

- (4) If a motion has been negatived by the Council, a motion having the same effect must not be considered unless notice of it has duly been given in accordance with clause 19 (1)(a). S372(3)

- (5) 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 at least 3 Councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be S372(4)
- (6) 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 subclause may not be evaded by substituting a motion differently worded, but in principle the same. S372(5)
- (7) 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. S372(6)
- (8) The provisions of this clause concerning negated motions do not apply to motions of adjournment. S372(7)

### **Motions for adjournment**

35. (1) Debate shall not be permitted on any motion for adjournment of a meeting of the Council.
- (2) 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.
- (3) A motion for adjournment may specify the period of the adjournment or the time, date and place of the adjourned meeting; however, if a motion for adjournment is carried but does not specify the period of adjournment or 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.
- (4) If the meeting is adjourned to another day any decisions of Council prior to the adjournment of the meeting are to be acted upon by Council officers. The outstanding matters are to be resubmitted to the adjourned meeting for determination.

*NOTE: Any decisions made prior to adjournment can only be varied by a notice of rescission in accordance with Clause 34.*

### **Time Limit for Meetings**

36. (1) Council may by resolution adopt a time limit on a meeting of Council and Committees.
- (2) Council currently has not adopted any such time limit.

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**PART 4 - KEEPING ORDER AT MEETINGS****Questions of order**

37. (1) 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.

*NOTE: The conduct of meetings is the responsibility of the chairperson. See also clauses 14 and 38.*

- (2) 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.
- (3) 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.
- (4) The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed. R28(1)-(4)

*NOTE: This clause also applies to committees. See clause 53.*

**Acts of disorder**

38. (1) 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. R29(1) (a)-(e)
- (2) The chairperson may require a Councillor:

- (a) to apologise without reservation for an act of disorder referred to in subclause (1) (a) or (b); or
  - (b) to withdraw a motion or an amendment referred to in subclause (1)(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 (1)(d) or (e).
- (3) A Councillor may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of Council for having failed to comply with a requirement under subclause (2). The expulsion of a Councillor from the meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder concerned. R29(2)-(3)

### **How disorder at a meeting may be dealt with**

39. (1) 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 or Committee, 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 as disorder arising from the conduct of Councillors.
- (2) A member of the public may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a Council for engaging in or having engaged in disorderly conduct at the meeting. R30 (1)-(2)

### **Power to remove persons from meeting after expulsion**

40. If a Councillor or a member of the public fails to leave the place where a meeting of a Council is being held:
- (a) immediately after the Council has passed a resolution expelling the Councillor or member from the meeting; or
  - (b) 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 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. R31



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**PART 5 - COUNCIL COMMITTEES****Committee of the Whole**

41. (1) The Council may resolve itself into a committee to consider any matter before the Council. S373
- (2) 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 the Council when in committee of the whole, except the provision limiting the number and duration of speeches. R32(1)
- (3) 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 committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported. R32(2)
- (4) 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. R32(3)

*NOTE: See also Clause 52 Reports of Committees*

**Council may establish committees**

42. (1) The Council may, by resolution, establish such committees as it considers necessary.
- (2) Such a committee is to consist of the Mayor and such number of Councillors of the Council as the Council decides.
- (3) The quorum for a meeting of such 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. R33(1)-(3)

*NOTE: Council may also appoint or elect committees under Section 355 of the Local Government Act to exercise a specific function/s of Council as defined by the Act. Council is able to appoint persons other than Councillors to Committees established under this section of the Act. These Committees are referred to as Community Committees.*

*Council may delegate under Section 377, by resolution any of the functions of Council, to a Committee appointed or elected under Section 355, other than those functions specifically listed in Section 377.*

**Functions of committees**

43. The Council must specify the functions of each of its committees when the committee is appointed or elected, but may from time to time amend those functions. R34

**Notice of committee meetings to be given**

44. (1) 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.
- (2) However, notice of less than 3 days may be given of a committee meeting called in an emergency. R35(1)-(2)
- (3) The provisions of clause 18(1)-(4) and 19(1)(a) apply to the business papers of committee meetings in the same manner as they apply to the business papers of meetings of the Council.

**Committee members other than Councillors**

45. Reference to Councillors in this part is deemed to include members of a Committee who are not Councillors.

**Non-members entitled to attend committee meetings**

46. (1) 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.
- (2) 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. R36 (1)-(2)

*NOTE: See also Clause 11 - attendance by General Manager*

**Representations by members of the public – closure of part of meeting**

47. Council, or a committee of the Council, does not allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public. (Council Minute No. 4/9/98)

**Procedure in committees**

48. (1) Each committee of the Council may regulate its own procedure.
- (2) Without limiting subclause (1), 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.
- (3) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands). R38(3)

**Committees to keep minutes**

49. (1) Each committee of a Council must ensure that full and accurate minutes of the proceedings of its meeting 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.
- (2) 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. R39(1)-(2)

**Chairperson and deputy chairperson of committees**

50. (1) 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.
- (2) 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.
- (3) 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.

- (4) 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. R40(1)-(4)
- (5) The Mayor is, by virtue of holding that office, a member of each committee of the Council. R33(2)

### **Absence from committee meetings**

51. (1) 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.
- (2) Subclause (1) does not apply if all of the members of the Council are members of the committee. R41(1)-(2)

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

### **Reports of committees**

52. (1) Minutes are to be kept and presented to Council for all meetings of Committees.
- (2) 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. R42(1)
- (3) The recommendations of a committee of the Council are, so far as adopted by the Council, resolutions of the Council. R42(2)
- (4) If a committee of a Council passes a resolution, or makes a recommendation, during a meeting, or a 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. R42(3)

**Disorder in committee meetings**

53. 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. R43

**Committee may expel certain persons from its meetings**

54. (1) If a meeting or part of a meeting of a committee of a Council is closed to the public in accordance with clause 64 (2), any person who is not a Councillor may be expelled from the meeting as provided by clause 63 (2) (a) or (b). R44(1)
- (2) 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 or person residing, 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. R44(2)

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**PART 6 - PECUNIARY INTERESTS****Pecuniary interest**

55. (1) 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 56.
- (2) 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 57. S442

**Persons who have a pecuniary interest**

56. (1) 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 as provided in this clause.
- (2) 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 delegate body that has a pecuniary interest in the matter.
- (3) However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (2):
- (a) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body; or
  - (b) just because the person is a member of, or employed by, a Council or a statutory body; 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. S443

**Interests that need not be declared**

57. The following interests do not have to be disclosed for the purposes of this Part:

- \* an interest as an elector
- \* an interest as a ratepayer or a person liable to pay a charge
- \* 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 or a section of the public that includes persons who are not subject to this Part
- \* an interest as a member of a club or other Organisation or association, unless the interest is as a holder of an office in the club or Organisation (whether remunerated or not)
- \* 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
- \* 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 the permissible uses of:
  - (a) land in which the person or another person with whom the person is associated as provided in section 443 has a proprietary interest (which, for the purpose 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
  - (b) land adjoining, or adjacent to, or in proximity to land referred to in paragraph (a),

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).  
S448

**Disclosure and participation in meetings**

58. (1) 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 to the meeting as soon as practicable.  
S451(1)
- (2) A general notice of disclosure made pursuant to section 454 of the Act fulfils the requirement of subclause (1).  
S454

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- (3) The Councillor or member must not take part in the consideration or discussion of the matter. S451(2)
  - (4) The Councillor or member must not vote on any question relating to the matter. S451(3)
  - (5) 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 56. S452
  - (6) 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 any pecuniary interest the person has in the matter to the meeting at the time the advice is given. S456(1)
  - (7) 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. S457

#### **Participation in meetings despite pecuniary interests**

59. Clause 58 does not prevent a person from taking part in the consideration or discussion of, or from voting on, any of the following questions:
- (a) a question relating to a contract, proposed contract or other matter if the person or the spouse, de facto partner or relative of the person has a pecuniary interest 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;
  - (b) a question arising on a motion for a resolution to fill the office of Mayor, if the reason for which abstention from voting would otherwise be required is that a fee for the following 12 months had been determined for the office;
  - (c) a question relating to the making 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 only reason for which abstention from voting would otherwise be required is that 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;
  - (d) a question relating to the making 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-
    - \* the performance by the Council at the expense of the relative of any work or service in connection with roads or sanitation



- \* security for damage to footpaths or roads
  - \* any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council;
- (e) a question relating to:
- \* the making or levying of a rate or charge; or
  - \* the fixing or charging of a fee for the supply to a relative of the person by the Council of any commodity or service provided by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part; or
  - \* the payment of fees and expenses and the provision of facilities to Councillors (including the Mayor);
- (f) a question relating to the passing for payment of a regular account for wages or salary of an employee who is a relative of the person;
- (g) a question relating to the indemnity insurance of Councillors or members of Council committees. S452(a)-(g)

*NOTE: Section 458 of the Act provides that the Minister may in certain circumstances allow a Councillor or a member of a committee of a Council who has a pecuniary interest to take part in the consideration or discussion of a matter or vote on a matter*

### **Disclosures to be recorded**

60. A disclosure made at a meeting of the Council or Council committee must be recorded in the minutes of the meeting. S453

### **Powers of the Council in relation to meetings**

61. A Councillor or member of a Council committee must not attend a meeting of the Council or committee while it has under consideration a matter in which the Councillor or member has an interest required to be disclosed under the Act. S455

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**PART 7 - OPEN MEETINGS****Public notice of meetings**

62. (1) 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.
- (2) 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 the associated business papers (such as correspondence and reports) for the meeting. This requirement does not apply to a business paper for a matter that, in the opinion of the General Manager, is likely to be considered when the meeting is closed to the press and public. S9(1)-(2)
- (3) The copies are to be available to the public as nearly as possible to the time they are available to Councillors.
- (4) The copies are to be available free of charge. S9(3)-(4)
- (5) A notice given under this section or a copy of an agenda or of a business paper made available under this section may in addition be given or made available in electronic form. S9(5)
- (6) 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 subsection (2) with respect to the availability of business papers do not apply to the business papers for that item of business. S9(2A)
- (7) A notice of a meeting of a Council or of a committee must be published in a newspaper circulating in the area before the meeting takes place.
- (8) The notice must specify the time and place of the meeting.
- (9) Notice of more than one meeting may be given in the same notice.
- (10) This clause does not apply to an extraordinary meeting of a Council or committee. R5(2)-(5)

**Who is entitled to attend meetings?**

63. (1) Except as provided by this Part:
- (a) everyone is entitled to attend a meeting of the Council and those of its committees of which all its members are Councillors, and
  - (b) a Council must ensure that all meetings of the Council and of such committees are open to the public.
- (2) A person (whether a Councillor or another person) is not entitled to be present at a meeting if expelled from the meeting by a resolution of 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(1)-(4)
- (3) 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.

**Which parts of a meeting can be closed to the public?**

64. (1) The Council or a Committee of which all members are Councillors, may close to the public only so much of its meeting as comprises the receipt or discussion of any of the following:
- (a) personnel matters concerning particular individuals;
  - (b) the personal hardship of any resident or ratepayer;
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the Council, or
    - (iii) reveal a trade secret,
  - (e) information that would, if disclosed, prejudice the maintenance of law,

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- (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) information concerning the nature and location of a place or an item of Aboriginal significance on community land. S10A(2)
- (2) 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. S10A(3)
  - (3) Council, or a committee of the Council, does not allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed to the public to consider any of the matters or information listed in sub-clause (1) or (2) above. (Council Minute No. 4/9/98)

#### **Representations by members of the public – closure of part of meeting**

- 65. (1) 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. R25

#### **Further limitations relating to closure of parts of meetings to public**

- 66. (1) A meeting is not to remain closed during the discussion of anything referred to in clause 64:
  - (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.
- (2) A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 64(1)(g) unless the 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

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- (c) are fully discussed in that advice.
- (3) If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (referred to in clause 64(2)), the consideration of the motion must not include any consideration of the matter or 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 64).
  - (4) 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:
      - (i) cause embarrassment to the Council or Committee concerned, or to Councillors or to employees of the Council, or
      - (ii) cause a loss of confidence in the Council or committee.S10B(1)-(4)
  - (5) In deciding whether 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 Department of Local Government.

#### **Notice of likelihood of closure not required in urgent cases**

- 67. Part of a meeting of a 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 64, and
  - (b) the Council or committee, after considering any representations made under Clause 65, resolves that further discussion of the matter:
    - (i) should not be deferred (because of the urgency of the matter), and
    - (ii) should take place in a part of the meeting that is closed to the public.

S10C

#### **Grounds for closing part of the meeting to be specified**

- 68. (1) The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.
- (2) The grounds must specify the following:

- (a) the relevant provision of clause 64,
- (b) the matter that is to be discussed during the closed part of the meeting,
- (c) the reasons why the 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 discussion of the matter in an open meeting would be, on balance, contrary to the public interest. S10D (1)-(2)

### **Resolutions passed at closed meetings to be made public**

69. If a Council passes a resolution during a meeting, or a 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. R26

### **Public access to correspondence and reports**

70. (1) 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.
- (2) 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. S11(I)-(2)
- (3) This section does not apply if the Council or committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in clause 64(1), are to be treated as confidential. S11(3)

### **Address by public - Council and Committee meetings**

71. Refer to clause 27 of this Code in relation to addresses from the public during the Public Forum session.

Council may suspend Standing Orders on any meeting day to receive deputations from organisations or members of the public. No deputation shall be granted permission to address Council meetings unless the subject matter together with the names of the persons comprising the deputation are advised to Council at least one week prior to the Council meeting. The number of speakers from any deputation shall be limited to a maximum of four.

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**PART 8 - MISCELLANEOUS**

**Information relating to proceedings at closed meetings not to be disclosed**

72. (1) A person must not disclose any information obtained in connection with the administration or execution of the Act 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 Act; or
  - (c) For the purposes of any legal proceedings arising out of the Act 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.
- (2) In particular, if a meeting or part of a meeting of a council or a committee of a council is closed to the public in accordance with section 10A(1), of the Act, a person must not, without the authority of the council or the committee, disclose (otherwise than to the council or a councillor of the council) information with respect to the discussion at, or the business of, the meeting.
- (3) Clause (1A) of this code does not apply to:
- (a) The report of a committee of a council after it has been presented to the council; or
  - (b) Disclosure made in any of the circumstances referred to in subsection (1)(a)-(e) of Section 10A of the Act;
  - (c) Disclosure made in circumstances prescribed by the regulations.
- (4) A person acting in the administration or execution of the Act must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known but if generally known might reasonably be expected to affect materially the market value or price of any land, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person.
- (5) A person acting in the administration or execution of the Act, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person, influence:
- (a) The determination of an application for an approval; or
  - (b) The giving of an order.
- (6) For the purposes of section 664 (1B) (c) of the Act, 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 Act is a prescribed circumstance.

**Inspection of the minutes of the Council or a committee**

73. (1) 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.
- (2) 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. R42(1)-(2)

*Note: Section 12 of the Act confers a right (restricted in the case of closed parts of meeting) to inspect the minutes of Council or Committee of a Council.*

**Councillors Access to records**

74. (1) The General Manager may allow or refuse to allow any Councillor to inspect any record of the Council that the Councillor requests to see.
- (2) If the General Manager refuses to allow a Councillor to inspect such record, the Councillor may, at a meeting of the Council, move for the production of the document. However, the Councillor must give notice of intention to move the motion.
- (3) If the Council passes a motion for the production of a Council record, the Council must ensure that the record:
- (i) Is produced immediately and laid on the table for inspection by the Councillors; and
  - (ii) Is made available for inspection by any Councillor on reasonable notice to the General Manager during the Council's ordinary office hours on any day that is within one month after the passing of the motion.

*Note: Section 12 and 12A of the Act sets out what records of Council are available to the public for inspection, free of charge, along with the conditions imposed in regard to an inspection of records including any restrictions placed on access to specific information contained in Council's records. (S12-S12A)*

**Tape recording of meeting of the Council or a committee prohibited without permission**

75. (1) A person may use a tape recorder to record the proceedings of a meeting of the Council or a committee of the Council only with the authority of the Council or committee.
- (2) A person may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a Council or a committee of a Council for using or having used a tape recorder in contravention of this clause.



- (3) If any such person, after being notified of 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 or person presiding, may, by using only such force as is necessary, remove the first mentioned person from the place and, if necessary, restrain that person from reentering that place.
- (4) 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.  
R47(1)-(4)
- (5) This clause shall not apply to the official recording of Council meetings.
- (6) Tapes of official recordings of Council meetings may be erased or destroyed at the expiration of three (3) months from the date of such meeting.

### **Council seal**

76. (1) The seal of a Council must be kept by the General Manager.
- (2) 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 one Councillor (other than the Mayor) and the General Manager, or
  - (c) the Mayor and at least one other Councillor, or
  - (d) at least two Councillors other than the Mayor.
- (3) 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 subclause (2)) attest by their signatures that the seal was affixed in their presence.
- (4) 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.
- (5) For the purpose of subclause (4), 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.  
R48(1)-(5)

### **Certain circumstances do not invalidate Council decisions**

77. Proceedings at a meeting of the Council or a Council committee are not invalidated because of:
  - (a) a vacancy in a civic office; or

- (b) a failure to give notice of the meeting to any Councillor or a committee member; or
- (c) any defect in the election or appointment of a Councillor or a committee member; or
- (d) a failure of a Councillor or a committee member to disclose a pecuniary interest at a Council or a committee meeting; or
- (e) a failure to comply with this Code. S374(a)-(e)

### **News Media Releases**

78. Statements on Media Releases which are intended to inform the public of a formal Council decision or policy should only be made by the Mayor, Deputy Mayor, General Manager or their delegates.

### **Amendment of Code**

79. (1) This Code may be amended only in accordance with the provisions of Division I of Part 2 of Chapter 12 of the Act. S363
- (2) In the event of any legislative change, those changes are to be incorporated into this Code without further public exhibition.

ATTACHMENT NO. 1

**NOTICE OF MOTION**

Dated: ...../...../200...

Title: .....

I, Councillor .....,

hereby give notice that I intend to move the following motion at the Ordinary Council meeting to be held on:

Day and Date of meeting .....day, ....../...../200...

That .....

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\_\_\_\_\_  
Councillor .....

*... page(s) of discussion points is (are) attached*