

# POLICY DOCUMENT

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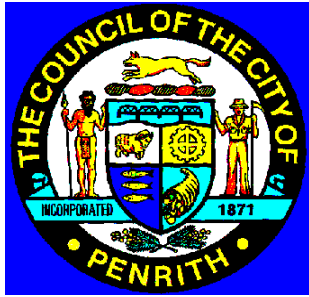
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**Policy Statement:**

The Policy starts on the next page.



# Penrith City Council

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## CODE OF MEETING PRACTICE



**PENRITH VALLEY**  
River Mountains Lakes

Adopted by Council 24 May 2010

## **PENRITH CITY COUNCIL**

### **CODE OF MEETING PRACTICE**

The Code of Meeting Practice sets out the manner in which meetings of the Council and Committees of Council are to be convened and conducted.

The Code incorporates the requirements of the Local Government Act, 1993 (as amended) and the Local Government (General) Regulation, 2005 with respect to meetings. Changes, which are made to the Act or Regulation, will automatically be incorporated into this Code and such changes will not be advertised.

This Code has been structured to assist the reader to easily understand what is required in the conduct of meetings and can, if required, be used as a reference document for committees and forums associated with Council.

Where sections of the Act and Regulation make reference to other parts of the Act or Regulation the relevant clause in the Code has been substituted and an italic type has been used.

The other sections of the Code, which have been formulated to meet the conditions which are considered appropriate for Penrith City Council, appear in a bold italic type in the Code. Should the Council wish to amend these sections of the Code it will need to be advertised in accordance with the requirements of the Act and public comment sought.

This Code will come into effect after consideration by Council, of comments from the public exhibition process in response to the exhibited draft. The date of adoption of the Code by the Council, will be the effective date from which the Code will come into effect.

Pages in the Code will be dated so that any changes to the Code either by way of legislative amendment or amendment by the Council can be easily identified.

The formal review date for this Code is 3 May 2012, however the Council may decide to review and adopt an amended Code prior to that date to meet changing circumstances as they arise.

Any review will be carried out in accordance with the provisions of the Local Government Act and the Regulations.

**Adopted: Ordinary Meeting 24 May 2010 Minute No: 167**

**Document No: 2443154**

**Review Date: 3 May 2012**

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## 1.0 COUNCIL MEETINGS

### 1.1 HOW OFTEN DOES THE COUNCIL MEET?

- (1) The Council is required to meet at least 10 times each year, each time in a different month.

*[Section 365]*

- (2) The Council will determine its meeting times, dates and locations to suit prevailing conditions and will advertise these details as required under its Code of Meeting Practice.

*[Council Policy]*

### 1.2 CALLING OF EXTRAORDINARY MEETINGS

- (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.

*[Section 366]*

- (2) The Mayor, in consultation with the General Manager, may call an extraordinary meeting to complete Council business or deal with any item of urgency.

- (3) The Council may resolve to hold extraordinary meetings as and when required.

- (4) Any request submitted in accordance with this clause must clearly nominate the business to be transacted at the meeting.

*[Council Policy]*

### 1.3 MINISTER TO CONVENE MEETINGS IN CERTAIN CASES

- (1) Whenever an area is constituted or reconstituted, the Minister is required:

- (a) to convene the first meeting of the Council of the area, and
- (b) to nominate the business to be transacted at the meeting, and
- (c) to give the Councillors notice of the meeting.

- (2) If there is no quorum at that meeting, the Minister may convene meetings in the same manner until a quorum is present.

- (3) The Council must transact the business nominated by the Minister for a meeting convened under this clause.

*[Clause 234 of Local Government (General) Regulation]*

### 1.4 NOTICE OF MEETINGS

- (1) The General Manager of a 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.





- (2) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.
- (3) 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 paper in that form.

*[Section 367]*
- (4) The notice period for ordinary and extraordinary meetings of the Council is to be 3 clear days, subject to subclause 2 above.

*[Council Policy]*

### **1.5 WHAT IS THE QUORUM FOR A MEETING?**

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.

*[Section 368]*

### **1.6 WHAT HAPPENS WHEN A QUORUM IS NOT PRESENT?**

- (1) A meeting of a 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.

*[Clause 233 of Local Government (General) Regulation]*

### **1.7 WHO PRESIDES AT MEETINGS OF THE COUNCIL?**

- (1) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor (if any) presides at meetings of the Council.
- (2) If the Mayor and the Deputy Mayor (if any) are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council.

*[Section 369]*
- (3) If the Mayor declares an interest, other than a pecuniary interest, in any matter being dealt with at a meeting, the Mayor will vacate the chair immediately prior to that item being considered and the Deputy Mayor will chair the meeting for the consideration of that item.



- (4) If both the Mayor and Deputy Mayor declare an interest, other than a pecuniary interest, in any matter being dealt with at a meeting, the Mayor will vacate the chair immediately prior to that item being considered and a chairperson will be elected to chair the meeting for the consideration of the item in accordance with *clause 1.8 of this Code*.  
*[Section 451 and Council Policy]*
- (5) In cases where, in (3) and (4) above, the interest being declared is a pecuniary interest, the provisions of *Section 12.1 of this Code* shall apply.  
*[Section 451 and Council Policy]*

## **1.8 COUNCILLOR TO BE ELECTED TO PRESIDE AT CERTAIN MEETINGS**

- (1) If no chairperson is present at a meeting of a 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.

Note: Section 369 (2) of the Act provides for a Councillor to be elected to chair a meeting of a Council when the Mayor and Deputy Mayor are absent. See *clause 1.7(2) of this Code*.

- (2) 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.
- (3) 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, the chairperson is to be the candidate whose name is chosen by lot.
- (4) For the purposes of subclause (3), 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.
- (5) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.  
*[Clause 236 of Local Government (General) Regulation]*

## **1.9 CHAIRPERSON TO HAVE PRECEDENCE**

When the chairperson rises during a meeting of a 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.  
*[Clause 237 of Local Government (General) Regulation]*



## 1.10 PRESENCE (OF COUNCILLORS) AT COUNCIL MEETINGS

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

*[Clause 235 of Local Government (General) Regulation]*





## 2.0 BUSINESS

### 2.1 ORDER OF BUSINESS

- (1) At a meeting of a Council (other than an extraordinary meeting), the general order of business is (except as provided by the Regulation) as fixed by the Council's code of meeting practice or (if the Council does not have a code of meeting practice or its code of meeting practice does not fix the general order of business) as fixed by resolution of the Council.
- (2) The order of business fixed under subclause (1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.
- (3) Despite *clause 2.10 of this Code*, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.  
*[Clause 239 of Local Government (General) Regulation]*
- (4) Notwithstanding subclause 1 above the order of business for meetings of the Council (including extraordinary meetings), in accordance with this Code, is to be:
  - National Anthem
  - Statement of Recognition
  - Prayer
  - Leave of Absence
  - Apologies
  - Confirmation of Minutes
  - Declarations of Interest
  - Addressing Council
  - Mayoral Minutes
  - Notice of Motion to Rescind a Resolution
  - Notice of Motion and Questions on Notice
  - Adoption of Reports and Recommendations of Committees
  - Delivery Program Reports
  - Requests for Reports and Memorandums
  - Urgent Business
  - Committee of the Whole

*[Council Policy]*



### **2.2 OFFICIAL MINUTES (*MAYORAL MINUTES*)**

- (1) If 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.
- (2) 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) 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.  
*[Clause 243 of Local Government (General) Regulation]*

### **2.3 REPORTS OF COMMITTEES**

- (1) 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.
- (2) The recommendations of a committee of the Council are, so far as adopted by the Council, resolutions of the Council.
- (3) 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.  
*[Clause 269 of Local Government (General) Regulation]*
- (4) Any report of a Committee of the whole or a committee of the Council, or any portion thereof, may be amended by the Council in any manner it may think fit, or may be referred back to the committee for further consideration.  
*[Council Policy]*

### **2.4 REPORT OF A DEPARTMENTAL REPRESENTATIVE TO BE TABLED AT COUNCIL MEETING**

When a report of a Departmental representative has been presented to a meeting of a 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.  
*[Clause 244 of Local Government (General) Regulation]*



### 2.5 COMMITTEE OF COUNCIL

A Council may resolve itself into a committee to consider any matter before the Council.

*[Section 373]*

### 2.6 COMMITTEE OF THE WHOLE

- (1) All the provisions of the Regulation relating to meetings of a 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.
- (2) 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.
- (3) 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.

*[Clause 259 of Local Government (General) Regulation]*

### 2.7 AGENDA AND BUSINESS PAPERS FOR COUNCIL MEETINGS

- (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 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 (2), 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) The General Manager must ensure that the details of any item of business to which *clause 13.1(2) of this Code* applies are included in a business paper for the meeting.
- (5) Nothing in this clause limits the powers of the chairperson under *clause 2.2 of this Code*.

*[Clause 240 of Local Government (General) Regulation]*



### 2.8 AGENDA FOR EXTRAORDINARY MEETINGS

- (1) The General Manager must ensure that the agenda for an extraordinary meeting of a 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 a Council even though due notice of the business has not been given to the Councillors. However, this can only happen 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 but only after the business notified in the agenda for the meeting has been disposed of.

- (3) Despite *clause 2.10 of this Code*, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.  
*[Clause 242 of Local Government (General) Regulation]*

### 2.9 GIVING NOTICE OF BUSINESS

- (1) A Council must not transact business at a meeting of the Council:
  - (a) unless a Councillor has given notice of the business in writing within such time before the meeting as is fixed by the Council's code of meeting practice or (if the Council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by resolution of the Council, and
  - (b) unless notice of the business has been sent to the Councillors in accordance with *clause 1.4 of this Code* (Section 367 of the Act).
- (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 1.8(1) of this Code*, or
  - (c) is a matter or topic put to the meeting by the chairperson in accordance with *clause 2.2 of this Code*, or
  - (d) is a motion for the adoption of recommendations of a committee of the Council.
- (3) Despite subclause (1), business may be transacted at a meeting of a Council even though due notice of the business has not been given to 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 great urgency.

Such a motion can be moved without notice.

- (4) Despite *clause 2.10 of this Code*, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.

*[Clause 241 of Local Government (General) Regulation]*

- (5) If a Councillor wishes to raise business at a meeting of the Council or Committee of the Council and that business is not already before or directly related to a matter already before the Council, a Councillor must give notice of that business to the Executive Officer or Public Officer by 12 noon on the Wednesday before the meeting.

*[Council Policy]*

### **2.10 LIMITATION AS TO NUMBER OF SPEECHES**

- (1) A Councillor who, during a debate at a meeting of a 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 subclauses (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 subclause (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 of reply under subclause (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 amendment to be resumed.

*[Clause 250 of Local Government (General) Regulation]*





### 2.11 MODE OF ADDRESSING COUNCIL

In accordance with the Council's commitment to the principles of equality, gender neutral terms should be used wherever possible.

- (1) A Councillor is, during ordinary and extraordinary meetings of the Council, to address and refer to other members by their official designations of Mr or Madam Mayor, Mr or Madam Deputy Mayor or Councillor.
- (2) Councillors, other than the Chairperson, are to rise in their place and stand while speaking during an ordinary or extraordinary meeting. This provision will not apply if the Councillor is prevented from standing by any disability.  
*[Council Policy]*





## 3.0 MOTIONS

### 3.1 NOTICE OF MOTION

- (1) Notices of motion, for ordinary and extraordinary meetings of the Council, are to be in writing and are to be delivered or posted to the General Manager in order to reach him/her by no later than 4.00 PM on the Tuesday preceding the meeting.
- (2) A Notice of motion must be signed by at least one Councillor.  
*[Council Policy]*

### 3.2 NOTICE OF MOTION - ABSENCE OF MOVER

In the absence of a Councillor who has placed a notice of motion on the agenda for a meeting of a 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.  
*[Clause 245 of Local Government (General) Regulation]*

### 3.3 MOTIONS TO BE SECONDED

A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clauses 2.2(2) and 2.10(5) of this Code.  
*[Clause 246 of Local Government (General) Regulation]*

### 3.4 AMENDMENTS

- (1) At the meeting a Councillor may move an amendment to any motion.
- (2) If an amendment is carried it becomes the motion.  
*[Council Policy]*

### 3.5 HOW SUBSEQUENT AMENDMENTS MAY BE MOVED

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.  
*[Clause 247 of Local Government (General) Regulation]*

### 3.6 FORESHADOWED AMENDMENTS

- (1) Notwithstanding *Clause 3.5 of this Code* a Councillor may, when a motion and an amendment have been moved, foreshadow an intention to move a further amendment before the amendment has been voted upon.
- (2) If the amendment is rejected the foreshadowed amendment may be moved and any intention to move a further foreshadowed amendment outlined and so on until the matter is decided.  
*[Council Policy]*



### 3.7 MOTIONS OF DISSENT

- (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 passed, 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 agenda and proceed with it in due course.
- (3) Despite *clause 2.10 of this Code*, 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.  
*[Clause 248 of Local Government (General) Regulation]*

### 3.8 CHAIRPERSON'S DUTY WITH RESPECT TO MOTIONS

- (1) It is the duty of the chairperson at a meeting of a 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.  
*[Clause 238 of Local Government (General) Regulation]*





### 4.0 VOTING

#### 4.1 VOTING AT COUNCIL MEETINGS

- (1) A Councillor who is present at a meeting of a Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- (2) 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.
- (3) The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 Councillors rise and demand a division.
- (4) 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.
- (5) 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.

*[Clause 251 of Local Government (General) Regulation]*

#### 4.2 WHAT ARE THE VOTING ENTITLEMENTS OF COUNCILLORS?

- (1) Each Councillor is entitled to one vote.
- (2) However, the person presiding at a meeting of the Council has, in the event of an equality of votes, a second or casting vote.

*[Section 370]*

*Note: Use of the casting vote is usually intended to retain the status quo.*





## 5.0 COUNCIL COMMITTEES

### 5.1 COUNCIL MAY ESTABLISH COMMITTEES

- (1) A Council may, by resolution, establish such committees as it considers necessary.
- (2) A committee is to consist of the Mayor and such other Councillors as are elected by the Councillors or appointed by the Council.
- (3) 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.

*[Clause 260 of Local Government (General) Regulation]*

### 5.2 FUNCTIONS OF COMMITTEES

A Council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions.

*[Clause 261 of Local Government (General) Regulation]*

### 5.3 NOTICE OF COMMITTEE MEETINGS TO BE GIVEN

- (1) The General Manager of a 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.

*[Clause 262 of Local Government (General) Regulation]*

- (3) The notice period for meetings of a committee of the Council is to be 3 clear days.

*[Council Policy]*

### 5.4 CHAIRPERSON AND DEPUTY CHAIRPERSON OF COMMITTEES

- (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) A 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 a 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 a 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.

*[Clause 267 of Local Government (General) Regulation]*

- (5) If the Mayor declares an interest, other than a pecuniary interest, in any matter being dealt with at a meeting of a committee of the Council, the Mayor will vacate the chair immediately prior to that item being considered and the Deputy Mayor will chair the meeting of the committee for the consideration of that item
- (6) If the Mayor and Deputy Mayor declare an interest, other than a pecuniary interest, in any matter being dealt with at a meeting of a committee of the Council, the Mayor will vacate the chair immediately prior to that item being considered and a chairperson will be elected to chair the meeting of the committee for the consideration of the item in accordance with subclause 1(c) above.

*[Section 451 and Council Policy]*

- (7) In cases where, in (5) and (6) above, the interest being declared is a pecuniary interest, the provisions of *clause 12.1 of this Code* shall apply.

*[Section 451 and Council Policy]*

### **5.5 PROCEDURE IN COMMITTEES**

- (1) Subject to subclause (3), each committee of a Council may regulate its own procedure.
- (2) Without limiting subclause (1), a committee of a 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).

*[Clause 265 of Local Government (General) Regulation]*

### **5.6 NON-MEMBERS ENTITLED TO ATTEND COMMITTEE MEETINGS**

- (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.

*[Clause 263 of Local Government (General) Regulation]*

### **5.7 ABSENCE FROM COMMITTEE MEETINGS**

(1) A member (other than the mayor) ceases to be a member of a committee if the member:

(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.

(NB the expression "year" means the period beginning 1 July and ending the following 30 June.)

*[Clause 268 of Local Government (General) Regulation]*

### **5.8 ORDER OF BUSINESS**

The order of business for a meeting of a committee of the Council in accordance with this Code is to be:

- Leave of Absence
- Apologies
- Confirmation of Minutes
- Declarations of Interest
- Addressing the Meeting
- Mayoral Minutes
- Notice of Motion and Questions on Notice
- Reports and Recommendations of Working Parties
- Delivery Program Reports
- Requests for Reports and Memorandums
- Urgent Business
- Confidential Business

*[Council Policy]*





## 6.0 DECISIONS OF COUNCIL

### 6.1 WHAT CONSTITUTES A DECISION OF THE COUNCIL?

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.

*[Section 371]*

### 6.2 RESCINDING OR ALTERING RESOLUTIONS

- (1) A resolution passed by a Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with regulations made under *section 360 of the Act* and, if applicable, the Council's code of meeting practice.
- (2) 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 of rescission has been dealt with.
- (3) If a motion has been negatived by a Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with the Council's code of meeting practice.
- (4) 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 negatived 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 negatived, as the case may be.
- (5) If a motion to alter or rescind a resolution has been negatived, or if a motion which has the same effect as a previously negatived motion, is negatived, no similar motion may be brought forward within 3 months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.
- (6) A motion to which this section applies may be moved on the report of a committee of the Council and any such report must be recorded in the minutes.
- (7) The provisions of this section concerning negatived motions do not apply to motions of adjournment.

*[Section 372]*

### 6.3 CERTAIN CIRCUMSTANCES DO NOT INVALIDATE COUNCIL DECISIONS

Proceedings at a meeting of a 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 committee member; or
- (c) any defect in the election or appointment of a Councillor or committee member; or





- (d) a failure of a Councillor or a committee member to disclose a pecuniary interest at a Council or committee meeting in accordance with section 451; or
- (e) a failure to comply with the code of meeting practice.

*[Section 374]*





## **7.0 ADJOURNMENTS**

### **7.1 ADJOURNMENT OF COUNCIL OR COMMITTEE MEETINGS**

- (1) The Council or a committee of Council may, at any time, adjourn a meeting to a time, date and place to be fixed, if the Council or a committee of the Council is of the opinion that it is necessary to do so.

### **7.2 MOTIONS FOR ADJOURNMENT**

- (1) No discussion will be permitted by the Chairperson on any motion for adjournment of a meeting of the Council or a committee of the Council.
- (2) If the motion for adjournment is lost, the subject then under consideration, or next on the business paper, is to be discussed.
- (3) No Councillor is to move a motion for adjournment of the Council or a committee of the Council until half an hour has elapsed since the previous motion for adjournment was lost.

*[Council Policy]*





### 8.0 QUESTIONS

#### 8.1 QUESTIONS MAY BE PUT TO COUNCILLORS AND COUNCIL EMPLOYEES

- (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) The 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.  
*[Clause 249 of Local Government (General) Regulation]*
- (5) Where a Councillor raises any question/s at a meeting a written copy of each question is to be tabled at the meeting for inclusion in the Minutes.  
*[Council Policy]*





## 9.0 KEEPING ORDER AT MEETINGS

### 9.1 QUESTIONS OF ORDER

The provisions of *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.

*[Council Policy]*

- (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.
- (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.

*[Clause 255 of Local Government (General) Regulation]*

### 9.2 ACTS OF DISORDER

- (1) A Councillor commits an act of disorder if the Councillor, at a meeting of a Council or a committee of a Council:
  - (a) contravenes the Act or any regulation in force under the Act, 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.
- (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 *clause 11.2(2)(a) or (b) of this Code*, be expelled from a meeting of a 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.

*[Clause 256 of Local Government (General) Regulation]*

### 9.3 HOW DISORDER AT A MEETING MAY BE DEALT WITH

- (1) If disorder occurs at a meeting of a 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 as disorder arising from the conduct of Councillors.

- (2) A member of the public may, as provided by *clause 11.2(2)(a) or (b) of this Code*, be expelled from a meeting of the Council for engaging in or having engaged in disorderly conduct at the meeting.

*[Clause 257 of Local Government (General) Regulation]*

### 9.4 POWER TO REMOVE PERSONS FROM MEETING AFTER EXPULSION

- (1) If a meeting or part of a meeting of a committee of a Council is closed to the public in accordance with *clause 10.1 of this Code*, any person who is not a Councillor may be expelled from the meeting as provided by *clause 11.2(2)(a) or (b) of this Code*.

- (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 presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain the person from re-entering that place.

*[Clause 271 of Local Government (General) Regulation]*

- (3) 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 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.

*[Clause 258 of Local Government (General) Regulation]*





## 10.0 CONFIDENTIAL BUSINESS

### 10.1 WHICH PARTS OF A MEETING CAN BE CLOSED TO THE PUBLIC?

- (1) A Council, or a committee of the Council of which all the members are Councillors, may close to the public so much of its meeting as comprises:
  - (a) the discussion of any of the matters listed in subclause (2), or
  - (b) the receipt or discussion of any of the information so listed.
- (2) The matters and information are 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:
    - 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 the 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) information concerning the nature and location of a place or an item of Aboriginal significance on community land.
- (3) A 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.
- (4) A Council, or a committee of a Council, may 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.

*[Section 10A]*



## **10.2 FURTHER LIMITATIONS RELATING TO CLOSURE OF PARTS OF MEETINGS TO PUBLIC**

- (1) A meeting is not to remain closed during discussion of anything referred to in *clause 10.1(2) of this Code*:
  - (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 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 or consideration of information or advice referred to in *clause 10.1(2)(g) of this Code* 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
  - (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 (as referred to in *clause 10.1(3) of this Code*), 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 10.1(2) of this Code*).
- (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 or the matter may:
    - (i) cause embarrassment to the Council or committee concerned, or to Councillors or to employees of the Council, or
    - (ii) cause loss of confidence in the Council or committee.
- (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 Director-General.

[Section 10B]

## **10.3 NOTICE OF LIKELIHOOD OR CLOSURE NOT REQUIRED IN URGENT CASES**

- (1) Part of a meeting of a Council, or 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 discussion of a particular matter that the matter is a matter referred to in *clause 10.1(2) of this Code*, and
- (b) the Council or committee, after considering any representations made under *clause 10.1(4) of this Code*, 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.

[Section 10C]

## **10.4 GROUNDS FOR CLOSING PART OF MEETING TO BE SPECIFIED**

- (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 10.1(2) of this Code*,
  - (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 open meeting would be, on balance, contrary to the public interest.

[Section 10D]

## **10.5 INFORMATION RELATING TO PROCEEDINGS AT CLOSED MEETINGS NOT TO BE DISCLOSED**

- (1) A person must not disclose any information obtained in connection with the administration or execution of this 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 this Act; or
  - (c) for the purposes of any legal proceedings arising out of this Act or 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.





- (1A) In particular, if part of a meeting of a Council or a committee of a Council is closed to the public in accordance with *clause 10.1(1) of this Code*, a person must not, without the authority of the Council or 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.
- (1B) Subsection (1A) 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); or
  - (c) disclosure made in circumstances prescribed by the regulations, or
  - (d) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with section 12 of the Act.
- (2) 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 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.
- (3) 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.

[Section 664]

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

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 that part of the meeting has concluded.

[Clause 253 of Local Government (General) Regulation]

### **10.7 DISCLOSURE AND MISUSE OF INFORMATION - PRESCRIBED CIRCUMSTANCES**

For the purposes of *clause 10.5 of this Code*, any disclosure made with the intention of enabling the Minister or Director-General to properly exercise the functions conferred or imposed on them by or under the Act is a prescribed circumstance.

[Clause 412 of Local Government (General) Regulation]





## 11.0 ATTENDANCE AT MEETINGS

### 11.1 PUBLIC NOTICE OF MEETINGS

- (1) A Council must give notice to the public of the times and places of its meetings and meetings of those of its committees of which all the members are Councillors.

*[Section 9(1)]*
- (2) *Clauses 11.1(2) to 11.1(6)* prescribe the manner in which the requirements outlined in *clause 11.1(1) of this Code* are to be complied with.
- (3) 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.
- (4) The notice must specify the time and place of the meeting.
- (5) Notice of more than one meeting may be given in the same notice.
- (6) *Clauses 11.1(2) to 11.1(6) of this Code* do not apply to an extraordinary meeting of a Council or committee.

*[Clause 232 of Local Government (General) Regulation]*

### 11.2 WHO IS ENTITLED TO ATTEND MEETINGS?

- (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 the 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) However, 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.
- (3) A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.

*[Section 10]*

### 11.3 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.

[Section 376]

### **11.4 REPRESENTATIONS BY MEMBERS OF THE PUBLIC – CLOSURE OF PART OF MEETING**

- (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.
- (2) That period is as fixed by the Council's code of meeting practice or (if the Council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the Council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.

[Clause 252 of Local Government (General) Regulation]

### **11.5 REQUEST BY MEMBERS OF THE PUBLIC TO MAKE REPRESENTATIONS ABOUT THE CLOSURE OF PART OF A MEETING**

- (1) Any member of the public may make representations about the closure of part of a meeting on the following basis:
- (a) in writing to the public officer or executive officer prior to the commencement of the meeting; or
  - (b) verbally when requested by the chairperson to indicate whether anyone would like to make representations about the closure of part of the meeting.
- (2) After a motion to close a part of a meeting to the public has been moved and seconded in accordance with *clause 11.4(1) of this Code* the chairperson will:
- (a) where the Council or committee has disagreed with the General Manager's recommendation that an item should be discussed in closed session, announce that public representation on that item will not be required.
  - (b) ask the public officer or executive officer, having regard to (a) above, whether there are any written representations from the public on the proposed closure,
  - (c) ask the public officer to read out any representations received providing that where more than three representations are received, either for and/or against the closure, then three written submissions for



and/or against will be chosen at random and read out.

- (d) having regard to (a) above, call for any verbal representations on the basis of *clause 11.5(4)* below.
- (3) The number of speakers on any one item is to be limited to three in support of any proposal to close a part of a meeting and three in opposition. The speakers will be chosen by the gallery and will be requested by the chairperson to speak in turn for and against the motion starting with a person in favour of the motion.
- (4) That for the purpose of *clause 11.4(2)* above, a period of five minutes per item will be allowed for any member of the public to make representations to a Council meeting as to whether a part of a meeting should be closed to the public. The Council may, where it considers the circumstances warrant, extend the period of time allowed under this Subclause.
- (5) The Council or committee can, if it considers it warranted, then close the meeting under Section 10A(3) of the Act to consider whether part of the meeting should be closed to the public to consider the subject item.
- (6) When the Council or committee has considered its position in accordance with *subclause 5* and returns to the open meeting a decision will then be taken on whether or not to close part of the meeting to consider the subject item and the reasons for the decision.

*[Council Policy]*

### **11.6 PERMISSION TO ADDRESS MEETINGS**

- (1) It is at the absolute discretion of the Council or the committee to determine whether or not a member of the public who has requested permission to address the meeting of the Council or committee of Council is permitted to do so.
- (2) Any member of the public may make a request to the General Manager, or Public Officer, or Executive Officer either in writing, verbally or other electronic means for permission to address a meeting of the Council or a committee of the Council on the following basis:
  - (a) up to 12 noon on the day of the meeting if the item on which the member of the public wishes to address the Council or committee is on the Agenda as a Delivery Program Report as part of the order of business for the meeting,
  - (b) if the item, the subject of the address, is not to be included on the Agenda of the upcoming meeting, as part of the order of business for the meeting, then the details will be taken and Council advised of the request at the next available Ordinary Meeting. Council will then determine whether the request will be granted and whether a report is required to be presented at the same meeting at which the address will be heard.
- (3) The Council or committee may, notwithstanding *clause 11.4(1)* above, allow a member of the public to address the meeting if it considers that the situation warrants such action.



- (4) Any member of the public wishing to address a meeting of the Council or committee of the Council has to provide to the Public Officer, or Executive Officer or nominee, by 12 noon on the day of the meeting, the following:
- a) Name.
  - b) Organisation or group represented (if applicable).
  - c) Details of the issue to be addressed and the item number of the Delivery Program report in the Business Paper.
  - d) A clear statement as to whether the person is for (supports) or against (opposes) the recommendation in the Business Paper.
  - e) The interest of the speaker (e.g. affected person, neighbour, applicant, applicant's spokesperson, interested citizen).
  - f) Written statements of the points to be covered during the address, in sufficient detail so as to inform the Councillors of the substance of the address.
  - g) A written copy of any questions asked by the person addressing the meeting, in order that responses to those questions could be provided in due course.
- (5) Prior to addressing a meeting, the meeting may consider whether the material provided in the application is considered irrelevant, vexatious or frivolous and accordingly refuse an application to address the meeting. The meeting may call on the General Manager or on relevant Council staff, through a request to the General Manager, to provide advice as to whether the material is considered to be irrelevant, vexatious or frivolous.
- (6) The number of speakers on any one item is to be limited to three in support of any proposal and three in opposition except at the discretion of Council.
- (7) Any member of the public granted permission by the meeting of the Council or committee of the Council to address the meeting is required to limit the address to a maximum of 5 minutes. The Council or committee may, at its discretion, grant an extension of time in appropriate circumstances.
- (8) It should be noted that speakers at meetings of the Council or Committee do not have absolute privilege (parliamentary privilege). A speaker who makes any potentially offensive or defamatory remarks about any other person may render themselves open to legal action.

A person addressing Council or Committee will be informed that they do not enjoy any privilege and that permission to speak may be withdrawn should they make inappropriate comments.

Prior to addressing the meeting the person will be required to sign the following statement:

"I (name) understand that the meeting I intend to address on (date) is a public meeting. I also understand that should I say or present any material that is inappropriate, I may be subject to legal action. I also acknowledge that I have been informed to obtain my own legal advice about the appropriateness of the material that I intend to present at the above mentioned meeting."



Should a person fail to sign the above statement then permission to address either the Council or Committee will not be granted.

- (9) A speaker may only address Council or Committee once on any particular item unless there are circumstances that, in the opinion of the Council, have changed substantially since Council's previous consideration.
- (10) A speaker seeking to address the Council or Committee and raise allegations about the Council of handling of a matter by staff must make such allegations in writing to the Mayor, in respect of Council or the General Manager, in respect of staff.

(The purpose of this is not intended to restrict people from raising concerns about the way Council or about the way staff have handled matters but to provide a mechanism whereby any allegations are properly investigated and dealt with appropriately.)

- (11) A request to address Council on a matter that is the subject of Legal proceedings will not be accepted.
- (12) A request by a Tenderer to address Council on a matter regarding a tender will not be accepted. Council may however accept a written submission provided by a Tenderer.
- (13) Once closed to the public no person, unless requested by the Committee, is entitled to address Committee of the Whole other than Council staff and Council advisors, and any information provided by Council staff or Council advisors shall be upon the request of the chairperson of the committee or by the direction of the General Manager.

*[Council Policy]*

### **11.7 PRESENTATIONS TO COUNCIL OR COMMITTEE MEETINGS**

- (1) On occasions it will be necessary for members of the public to make formal presentations to meetings of the Council or committees of Council to support applications or as a result of studies commissioned by the Council.
- (2) Any reports outlining the need for presentations should give some indication of the period of time which will be needed for the presentation.
- (3) It is at the absolute discretion of the Council or the committee to determine whether or not the presentation proceeds.

*[Council Policy]*

### **11.8 SUSPENSION OF STANDING ORDERS**

- (1) At every ordinary and extraordinary meeting of the Council it is necessary for a resolution to be passed to the effect that only so much of the standing orders be suspended as would prevent members of the public addressing or making presentations to the meeting.
- (2) If the Council is not prepared to suspend standing orders then the address or presentation to the Council cannot be made.

*[Council Policy]*



### 11.9 ACCOMMODATION AT MEETINGS

- (1) Reasonable accommodation will be provided for the public at all Council and committee meetings, which are open to the public.
- (2) Reasonable accommodation and facilities will also be provided to anyone who is employed to report the proceedings of meetings, which are open to the public.

*[Council Policy]*





## 12.0 DISCLOSURE OF PECUNIARY INTERESTS AT MEETINGS

### 12.1 DISCLOSURE AND PARTICIPATION IN MEETINGS

- (1) A Councillor or a member of a Council committee, including committee of the whole, 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.
- (2) 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
  - (b) at any time during which the Council or committee is voting on any question in relation to the matter.
- (3) For the removal of doubt, a councillor or a member of a council committee is not prevented by this section from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or member has an interest in the matter of a kind referred to in section 448 of the Act.

*[Section 451 and Council Policy]*

### 12.2 DISCLOSURES TO BE RECORDED

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

*[Section 453]*

### 12.3 RECORDING OF VOTING ON PLANNING MATTERS

- (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.

[Section 375A]

## 12.4 GENERAL DISCLOSURE

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.

[Section 454]

## 12.5 DISCLOSURE BY ADVISER

- (1) 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.
- (2) The person is not required to disclose the person's interest as an adviser.

[Section 456]

## 12.6 CIRCUMSTANCES IN WHICH CLAUSE 12.1 AND 12.5 ARE NOT BREACHED

A person does not breach *clause 12.1 or 12.5 of this Code* 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.

[Section 457]

## 12.7 POWERS OF MINISTER IN RELATION TO MEETINGS

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 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 for the area to do so.

[Section 458]





### 13.0 AVAILABILITY OF CORRESPONDENCE, REPORTS AND RECORDS

#### 13.1 COPY OF BUSINESS PAPER

- (1) A Council and each such committee must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting.
- (2) 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 (1)* with respect to the availability of business papers do not apply to the business papers for that item of business.
- (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.
- (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.

*[Section 9(2, 2A, 3, 4 & 5)]*
- (6) The decision on how to arrange items of business on the agenda for a part of a meeting that is likely to be closed to the public is made by the General Manager as an administrative action.

*[Council Policy]*

#### 13.2 PUBLIC ACCESS TO CORRESPONDENCE AND REPORTS

- (1) A Council and a committee of which all 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 section 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.
- (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 10.1 of this Code*, are to be treated as confidential.

*[Section 11]*



### 13.3 URGENT REPORTS

- (1) Circumstances will necessitate the distribution of urgent reports either prior to or at Ordinary, Extraordinary and Committee Meetings. Where the urgent items are distributed:
  - (a) prior to the meeting no additional time will be allowed for Councillors to read the report unless the meeting decides otherwise;
  - (b) at the meeting the chairperson shall determine a period of time, to allow Councillors to read the report, prior to the item being discussed or determined.
- (2) Urgent reports, other than those relating to confidential business, will be available to the public as soon as practicable after they have been printed but in any event will be available on the night of the meeting.

*[Council Policy]*

### 13.4 RESTRICTION OF ACCESS TO INFORMATION

- (1) If the General Manager or any other member of the staff of a Council decides that access to a document or other information held by the Council should not be given to the public or a Councillor, the person concerned must provide the Council with written reasons for the restriction.
- (2) The reasons must be publicly available.
- (3) The Council must review any such restriction no later than 3 months after it is imposed.
- (4) The Council must, at the request of any person made after the expiry of a period of 3 months after that review (or of a period of 3 months after the most recent of any subsequent reviews), carry out a further review of the restriction.
- (5) The Council must remove the restriction if, at any time:
  - (a) it finds that there are no grounds for the restriction, or
  - (b) access to the relevant document or other information is obtained under the Freedom of Information Act 1989.
- (6) A review is not required under this section if the restriction concerned has been removed.

*[Section 12A]*





## 14 MINUTES

### 14.1 COUNCIL MINUTES

- (1) The Council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council.
- (2) The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting.  
*[Section 375]*
- (3) 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 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.  
*[Clause 254 of Local Government (General) Regulation]*

### 14.2 COMMITTEES TO KEEP MINUTES

- (1) Each committee of a 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 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.  
*[Clause 266 of Local Government (General) Regulation]*

### 14.3 DISCUSSION ON ACCURACY OF MINUTES

- (1) A motion or discussion in respect to minutes shall only be in order if it relates to the accuracy of the minutes as a record of the proceedings.  
*[Council Policy]*

### 14.4 FORM OF MINUTES

- (1) Each sheet of the minute book is to be kept in a loose-leaf form and is to contain, on each sheet:



- (a) a heading setting out the nature of the meeting and the date of the meeting to which the minutes refer;
  - (b) a footer indicating that “This is page number.....of the minutes of the .....meeting of the .....Council held on
- (2) The sheets of the minute book are to be kept in chronological order.  
*[Council Policy]*

## 14.5 INSPECTION OF THE MINUTES OF A COUNCIL OR COMMITTEE

- (1) An inspection of the minutes of a Council or committee of a 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.
- (3) Everyone is entitled to inspect the current version of:
  - agendas and business papers for Council and committee meetings (but not including business papers for matters considered when part of a meeting is closed to the public)
  - minutes of Council and committee meetings, but restricted (in the case of any part of a meeting that is closed to the public), to the resolutions and recommendations of the meeting

*[Clause 272 of Local Government (General) Regulation & Section 12]*
- (4) Minutes of Council or committee of the Council will be made available to the councillors and the public as soon as practicable after the meeting.
- (5) The minutes available to the public take the form of unconfirmed minutes and can be changed when they are submitted for confirmation at a subsequent meeting.  
*[Council Policy]*

## 14.6 MINUTES IN EVIDENCE

- (1) 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.

*(Section 703)*





## 15 MISCELLANEOUS

### 15.1 TAPE RECORDING OF MEETING OF COUNCIL OR COMMITTEE PROHIBITED WITHOUT PERMISSION

- (1) A person may use a tape recorder to record the proceedings of a meeting of a Council or a committee of a Council only with the authority of the Council or committee.
- (2) A person may, as provided by *clause 11.2(2)(a) or (b) of this Code*, 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 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 or 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.
- (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.

*[Clause 273 of Local Government (General) Regulation]*

### 15.2 WHEN DOES A VACANCY OCCUR IN A CIVIC OFFICE

- (1) A civic office becomes vacant if the holder:
  - (a) dies, or
  - (b) resigns the office by writing addressed to the General Manager, or
  - (c) is disqualified from holding civic office, or
  - (d) is absent (unless the holder is absent because he or she has been suspended from office under section 482 of the Act) without:
    - (i) prior leave of the council, or
    - (ii) leave granted by the council at any of the meetings concerned, or
  - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (f) becomes a mentally incapacitated person, or
  - (g) is dismissed from civic office, or
  - (h) ceases to hold office for any other reason.



- (2) For the purposes of Sub Section, (1) (d), a Councillor applying for a 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 holder of a civic office attends a council meeting (whether or not an ordinary meeting) despite having been granted leave of absence, the leave of absence is taken to have been rescinded as regards any future council meeting.
- (4) Subsection (3) does not prevent the council from granting further leave of absence in respect of any future council meeting.

*[Section 234]*

### **15.3 LIABILITY OF COUNCILLORS, EMPLOYEES AND OTHER PERSONS**

- (1) A matter or thing done by the Minister, the Director-General, a Council, a Councillor, a member of a committee of the Council or an employee of the Council or any person acting under the direction of the Minister, the Director-General, the Council or a committee of the Council does not, if the matter or thing was done in good faith for the purpose of executing this or any other Act, and for and on behalf of the Minister, the Director-General, the Council or a committee of the Council, subject a Councillor, a member, an employee or a person so acting personally to any action, liability, claim or demand.

*[Section 731]*

### **15.4 PROCEEDINGS IN CASES NOT PROVIDED FOR**

- (1) Where any matter arises at a Council meeting which is not provided for by this Code, resort shall be had to the rules, forms, and usages of the Legislative Assembly of New South Wales in force for the time being, so far as the same are applicable to the proceedings of the Council.

*[Council Policy]*

### **15.5 SITE INSPECTIONS**

- (1) Site Inspections will be held from time to time as required to consider any item referred to it from an ordinary, extraordinary or committee meeting of the Council.

*[Council Policy]*

### **15.6 BRIEFINGS AND WORKING PARTIES**

- (1) Council creates working parties that are not committees, which report to Council. Working parties will either set or have Council set its terms of reference. Working parties shall work on projects within their terms of reference and provide reports to Council or a committee for a determination of that body.
- (2) Councillor Briefings are non decision making forums and are not committees of Council, established to provide a mechanism for informing and advising Councillors of matters relevant to Council activities that would not otherwise be achieved effectively using the written word, plans or diagrams.
- (3) Councillor Briefings may involve presentations by Council Officers, City stakeholders, other organisations and individuals at the invitation of the Council or Council Officers through the General Manager.



- (4) Councillor Briefings are purely informational and no recommendations should be made or decisions taken. Any detailed discussion or exchange of views on an issue, and any policy decision from the options, should be left to formal Council or committee meetings.
- (5) Council's Code of Conduct does apply to Councillor Briefings and Councillors need to take the appropriate action where conflicts of interest may arise.
- (6) Council's Councillor Briefing Charter sets out the manner in which Councillor Briefings are to be convened and conducted.
- (7) Briefing Papers are confidential and should be treated as such, unless release is required by the law.

*[Council Policy]*







## 16 DEFINITIONS

In this Code:

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

"*chairperson*":

- (a) in relation to a meeting of a Council - means the person presiding at the meeting as provided by *clause 1.7 of this Code*; and
- (b) in relation to a meeting of a committee of a Council - means the person presiding at the meeting as provided by *clause 5.5 of this Code*;

"*committee*", in relation to a Council, means a committee established under *clause 5.1 of this Code* or the Council when it has resolved itself into a committee of the whole;

"*Councillor*" includes a member of the governing body of a county Council;

"*day*" means every day of the week including week-ends and public holidays.

"*urgent report*" means a report which is not listed on the agenda for the meeting, and the subject of which is considered by the General Manager of such importance or urgency that it must be submitted to the meeting.

"*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 a Council or of a committee of a Council;

"*the Act*" means the Local Government Act 1993, as amended.

"*the Regulation*" means the Local Government (General) Regulation 2005.

"*year*" means the period beginning 1 July and ending the following 30 June.

"*note*" notes in the text of this Code are explanatory only and do not form part of the Code. They are provided for assistance only.





## PENRITH CITY COUNCIL

### CODE OF MEETING PRACTICE

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