



Code of Meeting Practice



Representing Our People Our Place Our Future

CODE OF MEETING PRACTICE

AMENDMENT HISTORY

Amendments	Pages Amended	Date Amended
Initial adoption by Council		21 June 2000
Major review	All Pages	18 February 2009
The addition of point 8 to clause 10.13	Page 39	2 September 2009
Changes to clause 10.1.5 Order of Business and clause 10.13.8 the words unanimous vote be replaced by two-thirds majority.	Pages 34 & 39	20 January 2010
Remove Questions Without Notice from the Order of Business.	Page 34	23 June 2010
Procedure for election of Deputy Mayor.	Pages 10 & 87	21 July 2010

This Code of Meeting Practice was originally adopted by Cessnock City Council on 21 June 2000. It has been reviewed in accordance with the *Local Government Act 1993* (NSW); the *Local Government (General) Regulation 2005* (NSW), Department of Local Government's 2008 "Model Code of Conduct for Local Councils in NSW" and the Meetings Practice Note 2005.

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PART 1 - PRELIMINARY

1.1 Introduction

This Code is made under the *Local Government Act, 1993* and in accordance with the *Local Government (General) Regulation, 2005*, Department of Local Government Model Code of Conduct for local Councils in NSW and the Department of Local Government Meetings Practice Note 2005.

Meeting procedures contribute to good public decision-making and increase Council's transparency and accountability to its community.

Council and any Committees of Council of which all members are Councillors **MUST** conduct their meetings in accordance with this Code (*LGA Sec 360*).

In adopting this Code of Meeting Practice, Cessnock City Council will conduct the meetings according to the following principles:

1. Meetings will address matters of policy, direction, resource allocation, statutory decisions and other appropriate Council issues;
2. Meetings will be orderly, efficient and earn the respect of ratepayers, residents and visitors;
3. Councillors and staff have an obligation to conduct themselves at meetings to accepted standards of behaviour and make positive contributions to the issues being considered;
4. Meetings will be held in an environment which facilitates respect shown for the views of others and regard for the due process of law, reasonableness and fairness; and
5. Council Meetings will comply with the basic organisation principle of Councillors not involving themselves in the day-to-day administration of Council matters.

Councils are encouraged to hold open Council Meetings as far as practical, and must almost always vote by open means (such as by show of hands). In this way members of the public can witness the conduct of a Council Meeting. Members of the public can also investigate the background to Council decisions by inspecting the business papers of the meeting. Through a combination of minutes, public attendance and open meetings, accountability is achieved.

1.2 Objective

The object of this Code is to provide for the convening and conduct of meetings of Council and of Committees of Council.

All Councillors, staff and community members participating in Council Meetings must act with good intentions and behave to the standard of conduct expected by the community. These standards have been identified as integrity; leadership; selflessness; objectivity; accountability; openness; honesty and respect (*Pt1/4 Model Code of Conduct*).

Council decisions should be based on fairness, impartiality, objectivity and consideration of all the issues.

Council Meetings will be conducted according to the following objectives:

1. To ensure that all meetings of Council and its Committees are conducted according to the principles of procedural fairness and due process;
2. To ensure that all Councillors have an equal opportunity to participate in the meeting to the fullest extent possible with respect being accorded to the expression of differing views;
3. To ensure that all Councillors fully understand their rights and obligations as participants in meetings of Council; and
4. To ensure that proceedings are transparent and understandable to all persons participating in and observing meetings of Council and its Committees.

1.3 Citation

This Code may be cited as the Cessnock City Council Code of Meeting Practice.

1.4 Commencement

This Code was originally adopted by Council on 21 June 2000.

1.5 Act and Regulation

The Code shall be interpreted in a manner which is consistent with the *Local Government Act 1993* (the Act), the Local Government General Regulation 2005, Department of Local Government Model Code of Conduct for Local Councils in NSW and the Objectives of this Code.

This Code is made pursuant to section 360(2) of the Act and it incorporates relevant provisions of the Regulation and the Act. 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.

The Code includes relevant references to sections of the Act and Regulations as well as supplementary provisions adopted by Council.

1.6 Definitions

The following definitions apply in this code:

Amendment, in relation to an original motion, means a motion moving an alternative to that motion. An amendment is a change to the motion before the Council, and takes place while that motion is being debated. An amendment to a motion must be put forward in a motion itself.

Ballot means secret ballot.

Chairperson,

- a) in relation to a meeting of the Council - means the person presiding at the meeting as provided by clause 9.1 of this Code; and
- b) in relation to a meeting of a Committee - means the person presiding at the meeting as provided by clause 9.2 of this Code.

Charter means a document setting out the purpose, membership, objectives and life of such a Committee.

Clause means clauses within this Code.

Committee means a Committee established by Council in accordance with clause 260 of the *Local Government (General) Regulation 2005*.

Community groups mean Chambers of Commerce, Community Committees, Progress Associations and the like.

Confidential session is a meeting of Council or a Committee from which the media and the public has been excluded by a resolution carried in accordance with section 10(A) of the *Local Government Act 1993*.

Council chamber for the purposes of:

- A Councillor expelled, in accordance with section 10(2) of the *Local Government Act 1993*, from a meeting, is the meeting room as defined in this clause, and includes the public gallery, the foyer areas and the first floor immediately adjacent to the meeting room but does not restrict the Councillor from traversing either area to gain access to the Councillor's room or exit from the Administration Building.
- Another person expelled, in accordance with section 10(2) of the *Local Government Act 1993*, from a meeting is the meeting room as defined in this clause, and includes the public gallery, the foyer areas on the ground floor and the first floor immediately adjacent to the meeting room and any room adjacent to the foyer areas.
- For the purpose of sound or vision recording or televising a meeting is the meeting room as defined in this clause, and includes the public gallery, the foyer areas on the ground floor and the first floor immediately adjacent to the meeting room and any room adjacent to the foyer areas.

Councillor means a person elected or appointed to civic office as a member of the governing body of Council, including the Mayor.

Designated persons are:

- the General Manager;
- other senior staff of the Council;
- a person (other than a member of the senior staff of the Council) who is a member of staff of the Council or a delegate of the Council and who holds a position identified by the Council as the position of a designated person because it involves the exercise of functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest; and
- a person (other than a member of the senior staff of the Council) who is a member of a Committee of the Council identified by the Council as a Committee whose members are designated persons because the functions of the Committee involve the exercise of the Council's functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the Committee and the member's private interest.

Division allows support or objection to a motion to be easily seen by a show of hands.

Due notice means at least three (3) full business days prior to a Council or Committee Meeting (including the Council or Committee Meeting Day where the meeting is held after 3 pm).

Englobo means in total.

EP&A Act means Environmental Planning and Assessment Act 1979

Foreshadowed means to put forward a motion that relates to a motion currently before the Council.

General Manager is the General Manager of Council.

Holder of civic office means the Mayor or Councillor.

LGA means Local Government Area.

Model code means the Model Code of Conduct.

Meeting room for the purposes this Code means inside the doors of the room being used for the meeting.

Motion is a proposal to be considered by Council at a meeting. It is a request to do something or to express an opinion about something. A motion formally puts the subject of the motion as an item of business for the Council.

Open voting means voting by a show of hands or similar means.

Original motion means the motion before the meeting at the time.

Pecuniary interest means an interest that a person has in a matter because of the reasonable likelihood or expectation of appreciable financial gain or loss to the person.

Quorum

- For a meeting of Council and for any Extraordinary meetings of the Council, shall be a majority of the Councillors of Council who hold office for the time being and who are not suspended from office; and
- For a meeting of any Committee established by the Council under Clause 260 of the *Local Government (General) Regulation, 2005*, shall be a majority of the members of the Committee.

Record means a document including any written or printed material or object (including a sound recording, coded storage device, magnetic tape, compact or floppy disc, microfilm, photograph, film, map, plan or model 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 Council and, in particular, includes the minutes of meetings of Council or of a Committee of Council.

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

Resolution means when a motion is passed by a majority of votes at a meeting at which a quorum is present, the motion becomes a decision of the Council.

The Act means the *Local Government Act, 1993* unless specified.

The Code means the Cessnock City Council Code of Meeting Practice.

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

Urgency in respect of motions, means a matter which calls for immediate action or attention which cannot be dealt with at a subsequent scheduled meeting of the Council.

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

1.7 Guide to References in this Code

The Code consolidates provisions in relevant Acts, Regulations and the City's Supplementary Provisions which are specific meeting provisions for Cessnock City Council. References to relevant sections in the Act and Regulations are included in the Code, however, for stylistic purposes these references are not necessarily verbatim.

LGA Sec = refers to the Local Government Act 1993 - Section Number

Reg = refers to the Local Government (General) Regulation 2005 – Regulation Number

Supp Prov = refers to specific Cessnock City Council supplementary provisions

Prac Note = Department of Local Government Meetings Practice Note 2005

EP&A Act = Environmental Planning and Assessment Act 1979

PART 2 – COUNCIL’S CHARTER

2.1 The Council’s charter

1. Cessnock City Council has the following charter:
 - a. to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
 - b. to exercise community leadership;
 - c. to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism;
 - d. to promote and to provide and plan for the needs of children;
 - e. to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development;
 - f. to have regard to the long term and cumulative effects of its decisions;
 - g. to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
 - h. to facilitate the involvement of Councillors, members of the public, users of facilities and services and Council staff in the development, improvement and co-ordination of local government;
 - i. to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants;
 - j. to keep the local community and the State government (and through it, the wider community) informed about its activities;
 - k. to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the Council is affected; and
 - l. to be a responsible employer.
2. Council, in the exercise of its functions, must pursue its charter but nothing in the charter or this section gives rise to, or can be taken into account in, any civil cause of action.

LGA Sec 8 (1-2)

PART 3 – THE MAYOR & DEPUTY MAYOR

3.1 The Mayor

1. An area must have a mayor who is elected in accordance with Division 2 of the Local Government Act 1993.

LGA Sec 225

3.2 What is the role of the Mayor?

1. The role of the mayor is:
 - a. to exercise, in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council;
 - b. to exercise such other functions of the Council as the Council determines;
 - c. to preside at meetings of the Council; and
 - d. to carry out the civic and ceremonial functions of the mayoral office.

LGA Sec 226

2. When the Mayor exercises policy making functions of the Council between meetings it is good practice for the Mayor to report his or her actions to the next available Council Meeting.

Prac Note

3.3 Who elects the Mayor?

1. The mayor of an area is the person elected to the office of Mayor by:
 - a. the Councillors from among their number, unless there is a decision in force which provides for the election of the mayor by the electors, or
 - b. the electors, if such a decision is in force.

LGA Sec 227

3.4 Election of Mayor

1. The mayor of an area who is to be elected by the electors is to be elected by an electorate comprising all the electors for the area, even if the area is divided into wards.
2. The mayor of an area who is to be elected by the Councillors for the area is to be elected by the Councillors from among their number.
3. A mayor elected for an area is one of the Councillors of the Council for the area.

LGA Sec 282 (1-3)

3.5 How is it decided that the Mayor be elected by the electors?

1. It may be decided at a constitutional referendum that the mayor be elected by the electors.
2. A decision that the mayor be elected by the electors takes effect in relation to the next ordinary election after the decision is made.

LGA Sec 228 (1-2)

3.6 Can the decision be changed?

1. A decision that the mayor be elected by the electors is rescinded only if a constitutional referendum decides in favour of discontinuing that means of election.
2. The rescission takes effect in relation to the next ordinary election after the rescission occurs.

LGA Sec 229 (1-2)

3.7 For what period is the Mayor elected?

1. A mayor elected by the Councillors holds the office of mayor for 1 year, subject to this Act.
2. A mayor elected by the electors holds the office of mayor for 4 years, subject to this Act.
3. The office of mayor:
 - a. commences on the day the person elected to the office is declared to be so elected, and
 - b. becomes vacant when the person's successor is declared to be elected to the office, or on the occurrence of a casual vacancy in the office.
4. A person elected to fill a casual vacancy in the office of mayor holds the office for the balance of the predecessor's term.

LGA Sec 230 (1-4)

3.8 Deputy Mayor

1. The Councillors may elect a person from among their number to be the deputy mayor.
2. The person may be elected for the mayoral term or a shorter term.
3. The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.
4. The Councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.

LGA Sec 231 (1-4)

3.9 Election of Deputy Mayor

1. If a mayor or deputy mayor is to be elected by the Councillors of an area, the election is to be in accordance with Schedule 7 of the Local Government (General) Regulation 2005.
Reg 394
2. The General Manager (or a person appointed by the General Manager) is the returning officer.
3. A Councillor may be nominated without notice for election as mayor or deputy mayor.
4. The nomination is to be made in writing by 2 or more Councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.
5. The nomination is to be delivered or sent to the returning officer.
6. The returning officer is to announce the names of the nominees at the Council meeting at which the election is to be held.
7. If only one Councillor is nominated, that Councillor is elected.
8. If more than one Councillor is nominated, the Council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
9. The election is to be held at the Council meeting at which the Council resolves on the method of voting.
Reg (Schedule 7)
10. Where the Deputy Mayor is elected to fill a casual vacancy in the position of Mayor the position of Deputy Mayor will automatically become vacant and an election to fill the vacancy will be held at that same meeting notwithstanding the fact that notice of the election was not given in the notice calling the meeting.
11. Where a casual vacancy occurs in the position of Deputy Mayor, other than as covered by subclause 10 (above), an election to fill the vacancy will be held at the next ordinary meeting of the Council that permits notice of the election to be included in the notice required to be given in accordance with this Code for the calling of ordinary meetings of the Council.

PART 4 – THE COUNCILLORS

4.1 What is the role of a Councillor?

1. The role of a Councillor is, as a member of the governing body of the Council:
 - a. to direct and control the affairs of the Council in accordance with the Act;
 - b. to participate in the optimum allocation of the Council's resources for the benefit of the area;
 - c. to play a key role in the creation and review of the Council's policies and objectives and criteria relating to the exercise of the Council's regulatory functions; and
 - d. to review the performance of the Council and its delivery of services, and the management plans and revenue policies of the Council.
2. The role of a Councillor is, as an elected person:
 - a. to represent the interests of the residents and ratepayers;
 - b. to provide leadership and guidance to the community; and
 - c. to facilitate communication between the community and the Council.

LGA Sec 232 (1-2)

It should be noted that individual Councillors do not have the authority to make decisions about Council activities, allocate resources or direct staff outside the forum of Council.

4.2 For what period is a Councillor elected?

1. A Councillor (other than the mayor) holds office for four years, subject to the Act.
2. The office of Councillor:
 - a. commences on the day the person elected to the office is declared to be so elected; and
 - b. becomes vacant on the day appointed for the next ordinary election of Councillors, or on the occurrence of a casual vacancy in the office.
3. A person elected to fill a casual vacancy in the office of Councillor holds the office for the balance of the predecessor's term.

LGA Sec 233 (1-3)

PART 5 – THE GENERAL MANAGER

5.1 Appointment of General Manager

1. A Council must appoint a person to be its General Manager. The person must not be a body corporate.
2. The position of General Manager is a senior staff position.

LGA Sec 334 (1-2)

5.2 Functions of General Manager

1. The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.
2. The General Manager has the following particular functions:
 - a. the day-to-day management of the Council;
 - b. to exercise such of the functions of the Council as are delegated by the Council to the General Manager;
 - c. to appoint staff in accordance with an organisation structure and resources approved by the Council;
 - d. to direct and dismiss staff; and
 - e. to implement the Council's equal employment opportunity management plan.
3. The General Manager has such other functions as may be conferred or imposed on the General Manager by or under this or any other Act.

LGA Sec 335 (1-3)

5.3 Delegations by the General Manager

1. A Council may, by resolution, delegate to the General Manager or any other person or body (not including another employee of the Council) any of the functions of the Council, other than those stated in section 377 of the Act.
2. The General Manager may delegate any of the functions of the General Manager, other than this power of delegation.
3. The General Manager may sub-delegate a function delegated to the General Manager by the Council to any person or body (including another employee of the Council).
4. Subsection 3 extends to a function sub-delegated to the General Manager by the Council under section 377 (2).

LGA Sec 378 (1-3)

PART 6- THE CODE OF MEETING PRACTICE

The Act and the Regulation set out the basic procedure that must be followed at Council Meetings. Council and Council Committees consisting of all Councillors must run meetings following the adopted Code of Meeting Practice. Failure to run meetings in line with the Act and the Regulation is a breach of the Act (LGA Sec 672).

6.1 Application of the Code

1. The Regulations may make provision with respect to the conduct of meetings of Councils and Committees of Councils of which all the members are Councillors.
2. A Council may adopt a Code of Meeting Practice that incorporates the Regulations made for the purposes of this section and supplements those Regulations with provisions that are not inconsistent with them.
3. A Council and a Committee of the Council of which all the members are Councillors must conduct its meetings in accordance with the Code of Meeting Practice adopted by it.

LGA Sec 360 (1-3)

6.2 Preparation, public notice and exhibition of draft Code

1. Before adopting a Code of Meeting Practice, a Council must prepare a draft Code.
2. The Council must give public notice of the draft Code after it is prepared.
3. The period of public exhibition must not be less than 28 days.
4. The public notice must also specify a period of not less than 42 days after the date on which the draft Code is placed on public exhibition during which submissions may be made to the Council.
5. The Council must publicly exhibit the draft Code in accordance with its notice.

LGA Sec 361 (1-5)

6.3 Adoption of the Code

1. After considering all submissions received by it concerning the draft Code, the Council may decide:
 - a. to amend those provisions of its draft Code that supplement the regulations made for the purposes of Section 360 of the Local Government Act 1993, or
 - b. to adopt the draft Code as its Code of Meeting Practice.

LGA Sec 362(1)

6.4 Amendment of the Code

1. This Code may only be amended by means of a new Code adopted under the procedures contained in the Local Government Act 1993 Chapter 12 – Part 2 - Division 1, except where an amendment is proposed that reflects a change to the Local Government Act 1993 or the Local Government (General) Regulation 2005 and such change will be made automatically and a report on the changes will be submitted to a meeting to Council.
2. If the Council is of the opinion that the amendments are not substantial, it may adopt the amended draft Code without public exhibition as its Code of Meeting Practice.

LGA Sec 362(2)

3. A Council may amend a Code adopted under this Part (Part 6 of this Code) by means only of a Code so adopted.

LGA Sec 363

6.5 Availability of the Code

1. The Code of Meeting Practice adopted by a Council must be available for public inspection free of charge at the office of the Council during ordinary office hours.
2. Copies of the Code must be available free of charge or, if the Council determines, on payment of the approved fee.

LGA Sec 364 (1-2)

PART 7 - BEFORE COUNCIL MEETINGS

7.1 Number of Council Meetings

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

LGA Sec 365

7.2 Council Meetings

1. Council has resolved that regular meetings will be held in the Council Chambers on the first and third Wednesday of each month commencing at 6.30pm, with the exception that the last meeting scheduled for December and the first meeting scheduled for January each year will not be held.
2. Where a scheduled meeting of Council falls on a Public Holiday, the meeting will be held on the day immediately after the Public Holiday. However, Council may alter the location, time and date of a meeting of Council by resolution at a prior ordinary meeting without notice being given provided the requirements of section 241 of the Local Government (General) Regulation 2005 are complied with.

7.3 Rescheduling of Meetings

1. Where four or more Councillors indicate their intention to attend any seminar or the like which clashes with a Council or Committee meeting, the date of that meeting will be altered by the Mayor to ensure the availability of the maximum number of Councillors possible.

Supp Prov

7.4 Extraordinary Meetings of Council

1. If the Mayor receives a request, in writing, signed by at least two Councillors, the Mayor must call an Extraordinary Meeting of the Council as soon as practicable but within 14 days after receipt of the request.
2. The Mayor may be one of the two Councillors making the written request, but the Mayor cannot call extraordinary meetings by him or herself without having a written request with another Councillors' signature.
3. Extraordinary Meetings of Council are not only held in 'extraordinary' circumstances. These meetings are usually held to deal with special business or where there is so much business to be dealt with that an additional meeting is required.
4. The meeting can be held on the same day as a previously scheduled meeting of Council. However, each meeting must be dealt with separately.

LGA Sec 366

7.5 Notice of Meetings (Ordinary or Committee)

1. The General Manager of the Council must send to each Councillor, at least three 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. 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.
3. A meeting of Council or a Committee cannot be held unless due notice has been given as defined in this Code and a quorum is present.
4. Agendas are to be delivered no later than the Friday preceding the meeting.
5. All Development Assessment reports are to be included as part of the Agenda delivered on the Friday.

LGA Sec 367(1&3)

Supp Prov

7.6 Notice of Extraordinary Meetings

1. Notice of less than three days may be given of an Extraordinary Meeting called in an emergency.
2. The Act does not define 'emergency'. It could cover things other than natural disasters or state of emergency for example, cover contract deadlines that must be met. The Mayor or General Manager would decide what is an 'emergency'.

LGA Sec 367(2)

Prac Note

7.7 Public notice of meetings

1. With the exception of Extraordinary Meetings, Council must give notice to the public in a newspaper circulating in the local area of the times and places of its meetings and meetings of those of its Committees of which all the members are Councillors, before the meeting takes place.
2. 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.
3. In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the General Manager, is likely to take place when the meeting is closed to the public:
 - a. the agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item), and
 - b. the requirements of clause (2) with respect to the availability of business papers do not apply to the business papers for that item of business.

Reg 232

4. The copies are to be available to the public as nearly as possible to the time they are available to Councillors.
5. The copies are to be available free of charge.
6. 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.

LGA Sec 9 (2-5)

7. A copy of the business paper of Council Meetings (not being confidential business paper), will be made available on Council's website by 3.30pm on the Friday preceding the Council meeting.

Supp Prov

7.8 Addressing Council

1. Members of the public may address meetings of Council on items that are on the Council agenda, subject to the approval of the General Manager.
2. Members of the public wishing to address meetings of Council must apply in writing to the General Manager no later than 12 noon on the Tuesday of the week preceding the Council Meeting.
3. The Chairperson will ask members of the public to restrict their addresses to no more than **7 minutes** with a further **3 minutes** available for questions from Councillors.
4. Councillors may ask questions to clarify the position of the speaker or statements made.
5. The Chairperson may suggest that if a satisfactory resolution to the matter on the agenda is being considered there may be no need for members of the public to address the Council.
6. Council, and Council staff on behalf of Council, may invite applicants, consultants, Government authorities and other groups or individuals to provide a presentation to Council on a matter that is on the Council agenda.
7. If there are a large number of people interested in the same item, one representative will be nominated to speak on behalf of a group and to indicate how many people they are representing.

Supp Prov

7.9 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.

Reg 234 (1-3)

PART 8 - QUORUM AND ATTENDANCE

8.1 Quorum for a Meeting

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

LGA Sec 368

2. Seven (7) Councillors must be present at a meeting of Council to form a quorum of the Cessnock City Council. Even if there are vacancies on the Council because of the resignation of a Councillor or Councillor leave, the quorum remains at seven (7) Councillors.

8.2 Councillor Presence at Council and Committee Meetings

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

Reg 235

2. There is no requirement that a Councillor remain at a Council Meeting while business is being conducted.

However, it is expected that Councillors would attend and remain at Council Meetings (unless prevented by illness or pressing circumstances) in order to responsibly perform their role as a Councillor (*LGA Sec 232*) and to assist the Council in complying with its Charter (*LGA Sec 8*).

Councillors must follow the Council's Code of Conduct (*LGA Sec 440*). The Local Government Act requires Councillors to act reasonably and responsibly in the performance of their duties. In addition, they are required to exercise reasonable care and diligence in carrying out their civic functions, by attending and remaining at meetings (*LGA Sec 439*).

8.3 Maintaining a quorum

1. Quorum may be lost during a Council Meeting where a Councillor or a number of Councillors leave the meeting, so that there is no longer a majority of the Councillors present. Councillors may not leave a meeting with the intention of removing the quorum so that business cannot proceed. This is a political use of the meeting procedure and is considered to contravene the principles on Council Meetings.
2. If a quorum cannot be maintained because of disputes between Councillors, the matters in contention should be negotiated outside of the meeting forum.
3. If negotiation is unsuccessful, clause 239 (2) of the Regulation allows for a procedural motion without notice to change the order of business at the meeting. In this way,

controversial issues can be dealt with last (to avoid losing quorum) and the remainder of the current business can be dealt with.

4. A record of individual Councillors movements during a Council Meeting will be noted in the minutes for the purpose of recording if a quorum is maintained.

8.4 Departure from Council Meetings

1. Councillors are required to give prior notice of their intended departure, to the Chairperson, before retiring from a meeting of the Council for the remainder of that meeting. This clause does not apply in urgent circumstances.

8.5 How do pecuniary interests affect a quorum?

1. Councillors with a pecuniary interest in a matter must leave the meeting during consideration of, and voting on, that matter. They are not counted for the purpose of a quorum.
2. If so many Councillors declare a pecuniary interest in a matter that the Council is unable to form a quorum to deal with the matter, the Councillors concerned may apply to the Minister to allow them to participate in the discussion and vote on the matter. The Minister does not grant such exemptions lightly.

8.6 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.

Reg 233(1-3)

8.7 Adjourned meetings

1. The adjournment of a meeting postpones it to a later time or date and, possibly, to a different place. An adjourned meeting is a continuation of the earlier part of the same meeting, not a new meeting.
2. Each Councillor and the public should be notified of the new date, time or place.
3. Council does not need to issue a new business paper for the adjourned meeting. The business papers already issued are the proper documents to which the meeting will refer.
4. Business not already on the agenda can be dealt with only for matters of urgency.
5. If the adjourned meeting is held on the same date as another Council meeting, the meetings should be kept separate, with separate business papers.

Prac Note

8.8 Quorum required for resolution(s) to be made

1. A quorum of Councillors must be present before a Council decision can be validly made. If a resolution is passed when there is no quorum, it is not a proper resolution and it cannot be made valid at a later meeting. However it can be considered at a later meeting with a proper quorum present.

8.9 Councillor Attendance at Meetings

1. A civic office becomes vacant if the holder (*Councillor*) is absent from 3 consecutive ordinary meetings of the Council (unless the holder is absent because he or she has been suspended from office under section 482 of the Act (*Pecuniary interest disciplinary order*) without:
 - i. prior leave of the Council, or
 - ii. leave granted by the Council at any of the meetings concerned.

LGA Sec 234(1)(d)

8.10 Application for Leave of Absence

1. For the purposes of Clause 8.4, 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.

LGA Sec 234(2)

2. A Councillor's application for leave of absence from Council meetings should, if practicable, identify (by date) the meetings from which the Councillor intends to be absent.

Reg 235A (1)

3. Wherever possible a Councillor shall submit an apology for non-attendance at any Council or Committee meeting.
4. Leave of absence may be granted prior to the meeting, or at the meeting.

8.11 Meeting Attendance while on Leave of Absence

1. 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.
2. Sub clause (1) above does not prevent the Council from granting further leave of absence in respect of any future Council meeting.
3. A Councillor who intends to attend a Council meeting despite having been granted leave of absence should, if practicable, give the General Manager at least 2 days' notice of his or her intention to attend.

LGA Sec 234(3-4)

Reg 235A(2)

8.12 Who is entitled to Attend Council Meetings

1. Except as provided by section 10 of the Act:
 - 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.

LGA Sec 10 (1-3)

8.13 General Manager attendance at Council 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.

LGA Sec 376 (1-3)

8.14 Council employees attendance at Council Meetings

1. The General Manager shall arrange for the attendance of such Council employees as are considered necessary by the General Manager for the transaction of the notified Council business.

Supp Prov

8.15 Attendance at Council briefing sessions

1. As a matter of policy, briefings will only be available to Councillors and staff, subject to the Mayor being delegated authority to allow a person or persons to attend part or whole of a briefing where the Mayor forms the opinion that such attendance would add to a better understanding of the issue under consideration by Councillors and staff.

Supp Prov

PART 9 - PRESIDING OVER MEETINGS OF COUNCIL

9.1 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 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.

LGA Sec 369 (1-2)

9.2 Councillors to be elected to preside at certain meetings

1. The Chairperson of each Committee meeting must be:
 - a. The Mayor; or
 - b. If the Mayor does not wish to be the Chairperson of that Committee, a member of the Committee elected by Council; or
 - c. If Council does not elect such a member, a member of the Committee elected by the Committee.
2. Council may elect a member of a Committee as Deputy Chairperson of the Committee. If Council does not elect a Deputy Chairperson of such a Committee, the Committee may elect a Deputy Chairperson.
3. If neither the Mayor nor the Deputy Chairperson of a Committee 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.

Reg 267 (1-3)

4. 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.
5. 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.
6. If, at an election of a Chairperson, two 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.
7. For the purposes of subclause (6), 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.
8. The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.

Reg 236 (1-5)

9.3 Chairperson to have Precedence

1. 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.

Reg 237

9.4 Chairperson's Duty with Respect to Motions

1. It is the duty of the Chairperson at a meeting of a Council to receive and to 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.

Reg 238 (1-3)

9.5 Mode of Address

1. Councillors shall at all times address other Councillors by their official designation, as Mayor, Councillor or Chairperson, as the case may be; and with the exception of the Chairperson, or any Councillor prevented by physical infirmity, shall stand when speaking.

Supp Prov

PART 10 – BUSINESS PAPERS

10.1 Order of Business

1. At an Ordinary 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 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 13.7 (*Limitation as to number of speeches*) of this Code, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.

Reg 239 (1-3)

4. At the discretion of the Mayor, Council can meet informally with staff in a non-decision making mode to discuss LGA wide issues of significance for approximately 30 minutes on those occasions where the Ordinary Meeting of Council concludes at a reasonable hour.

5. The general order of business will be:

- (1) OPENING PRAYER
- (2) ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS
- (3) RECEIPT OF APOLOGIES
- (4) CONFIRMATION OF MINUTES OF PREVIOUS MEETING
- (5) DISCLOSURES OF INTEREST
- (6) ADDRESS BY INVITED SPEAKERS
- (7) CONSIDERATION AND ADOPTION OF INFORMATION REPORTS EITHER INDIVIDUALLY OR WITH NOMINATED EXCEPTIONS, OR ENGLOBO
- (8) INSPECTIONS UNDERTAKEN
- (9) BRIEFINGS HELD
- (10) NOTICE OF INTENTION TO DEAL WITH MATTERS IN CONFIDENTIAL SESSION
- (11) MAYORAL MINUTES
- (12) RESCISSION MOTIONS
- (13) MOTIONS OF URGENCY
- (14) DEFERRED BUSINESS
- (15) OUR NATURAL, DEVELOPED AND CULTURAL ENVIRONMENT
- (16) QUALITY SERVICES
- (17) EMPLOYMENT AND SUSTAINABLE DEVELOPMENT OPPORTUNITIES
- (18) PROFESSIONAL MANAGEMENT AND LEADERSHIP
- (19) ACTIVE PARTICIPATION AND COMMUNITY CONSULTATION
- (20) NOTICE OF MOTION
- (21) QUESTIONS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN
- (22) ANSWERS TO QUESTIONS OF WHICH WRITTEN NOTICE HAS BEEN GIVEN
- (23) ANSWERS TO OUTSTANDING QUESTIONS WITHOUT NOTICE
- (24) CORRESPONDENCE
- (25) COUNCILLORS REPORTS
- (26) REPORT OF THE CONFIDENTIAL SESSION OF THE COUNCIL MEETING

Supp Prov

10.2 Business Paper for Council and Committee Meetings

1. The General Manager must ensure that the agenda for a meeting of the Council or a Committee 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. If, in the opinion of the General Manager, business to be transacted at a meeting of Council or of a Committee is a kind of business referred to in section 9(2A) of the Act, the business may be included in a confidential business paper or in a report marked confidential and circulated separately where that business is of a nature specifically prescribed by Section 10A(2) of the Act and is of such a nature to significantly impact upon Council's legal position. All other business to be transacted at the meeting must be included in an ordinary business paper.
5. If a confidential business paper or report is prepared for a kind of business referred to in section 9(2A) of the Act, the business must be referred to in the ordinary business paper prepared for the same meeting in accordance with Section 9 of the Act.
6. Nothing in this clause limits the powers of the Chairperson under Regulation 243.

Reg 240 (1-5)

10.3 Business Papers for Extraordinary Meeting

1. The General Manager must ensure that the business paper for an extraordinary meeting of a Council deals only with the matters stated in the notice of meeting.

Reg 242 (1-2)

10.4 Giving Notice of Business (Ordinary, Committee or Extraordinary)

1. Council must not transact business at a meeting of Council or a Committee:
 - a. unless a Councillor has given notice of the business in accordance with clause 13.1 (*Notices of Motion and Notices of Rescission*) of this Code; or
 - b. unless a Councillor has given notice of the business in accordance with clause 13.6 (*Motions to be Moved and Seconded*) of this Code; and
 - c. unless contained in a report by the General Manager or a Department Director through the General Manager;
 - d. unless notice of the business has been sent to the Councillors in accordance with clause 7.5 (*Notice of Meetings*) of this Code;

Reg 241(1)

 - e. if the business arises from reports on inspections and briefings unless there is a business item addressing a specific item elsewhere in the business paper of the meeting.
2. Sub clause (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 9.1 (*Who Presides at Meeting of Council*) of this Code;
 - c. is a Mayoral minute; or
 - d. is a motion for the adoption of recommendations of a Committee.

Reg 241(2)

A Councillor must give notice of business in writing no later than 12 noon on the Tuesday of the week preceding the Council Meeting.

Supp Prov

10.5 Dealing with matters Without Notice (Ordinary, Committee or Extraordinary)

1. Despite subclause 10.4(1), business may be transacted at a meeting of a 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;
 - b. the business proposed to be brought forward is ruled by the Chairperson to be of great urgency; and
 - c. the business notified in the agenda for the meeting has been disposed of.
2. Despite clause 13.7 (*Limitation as to Number of Speeches*), only the mover of a motion referred to in clause 10.5.1 can speak to the motion before it is put.

Reg 241 (2-3)

10.6 Mayoral Minute

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 (*business paper*) for the meeting. The Chairperson (but only if the Chairperson is the Mayor) may move 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.

Reg 243 (1-3)

4. Mayoral Minutes should not be used to introduce, without notice, matters that need research or significant consideration by the Councillors.
5. Mayoral Minutes are able to be amended by the Mayor and Councillors. However, Councillors should avoid making changes which do not comply with subclause 4 of this clause.
6. It is considered Better Practice for the Mayoral Minute to be included as part of the Business Paper. Council's Order of Business (Clause 10.1) shows the Mayoral Minute as item (9).

10.7 Reports of Committees

1. Council staff are required to provide full and timely information to Councillors about the matters that they are dealing with.
2. Councillors have a responsibility to properly read and understand all the information provided so that they can make decisions in line with Council's Charter.

Model Code Pt. 9.4 & 9.5

3. 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.
4. The recommendations of a Committee of the Council are, so far as adopted by the Council, resolutions of the Council.
5. 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.

Reg 269 (1-3)

10.8 Recommendations of Committees

1. The recommendation shown in the Business Paper should be the same as the one decided by the Committee.
2. Council can adopt; amend and adopt; or reject the recommendation.
3. Committee recommendations to the Council are usually in the form of –
“The Committee recommends to the Council that...”

10.9 Exclusion of Development Plans in the Business Paper

1. Applications for development consent, called ‘development applications’, must be submitted including different types of plans under the EP&A Act.
2. Floor plans are generally not included in the business papers.
3. Copies of the plans may be brought to Council and Committee meetings by Council staff.
4. Interested members of the public can view plans at Council’s Administration Building.

Prac Note

10.10 Additional information provided to Councillors

1. A Council may direct its General Manager to provide its Councillors with additional information to that in the Business Papers.
2. Additional information is to be marked separately from the Business Papers so as to avoid confusion. This information is not automatically available to the public.

Prac Note

10.11 Late Items

1. As circumstances necessitate, reports not listed for consideration on the Business Paper may be tabled at an Ordinary Meeting. The General Manager is authorised to submit late agenda items. Late reports should only be forwarded in the case of necessity and are to be forwarded to Councillors via email as well as in hard copy no later than midday on the day prior to the meeting at which the item is to be considered. Development Assessment Reports are not to be sent as “Late Items”.
2. For matters not listed on the agenda of meetings and where less than 3 days notice has been provided in accordance with clause 7.5 (*Notice of Meetings*) of this Code, a motion of urgency will need to be passed by the Council prior to the matter being considered. The motion of urgency is to include the reason why the matter is considered to be urgent.
3. This clause does not cover minor amendments or additional information relating to matters already being dealt with by Council.

10.12 Availability of Business Papers

1. Council Meeting business papers will be placed on Council's website www.cessnock.nsw.gov.au after 3.30 pm on the Friday preceding a Council Meeting and hard copies of business papers will be made available at the Council Office and both Libraries on the Friday preceding Council Meetings.
2. Council will make a limited number of hard copy business papers available at Council Meetings for use by the media and gallery.
3. Where a copy of a report and attachments etc is specifically requested, a fee may be charged at Council's normal rates.
4. Council will not make available to complainees the identity of complainants. Details of complaints will be made available.

Supp Prov

10.13 Requests for Verbal Submissions to Council

1. A maximum of **40 minutes** will be allowed from 6.30 pm, at the commencement of each Council Meeting, for verbal submissions to Council by individuals or organisations.
2. Applications for such submissions must be made to the Mayor or General Manager by 12.00 noon on the Tuesday of the week preceding the Council Meeting, to allow inclusion of notice of the address in the agenda for the meeting. Request forms are available on Council's website.
3. Generally a maximum of **four speakers** will be allowed to address Council at the one meeting. Speakers will receive 7 minutes with 3 minutes available for questions from Councillors.
4. The address must be in relation to a matter included on the agenda for consideration at that meeting, unless the addressee is a representative of an organisation associated with Council or sponsored by Council, and the topic of the address is related to that association etc.
5. There must be a direct link between the applicant and the matter before Council.
6. Persons addressing Council may, with the permission of the Mayor or General Manager, use appropriate materials or documents to support their position.
7. Consideration by Council will only be deferred if Council is of the opinion that the addressee has introduced new evidence that requires further investigation.
8. That when the Council is addressed by a speaker regarding any report before Council, the matter be deferred to the following meeting unless a two-thirds majority vote not to defer is recorded.

PART 11 - DECLARATIONS OF INTERESTS

Council's Code of Conduct provides guidance to Councillors on how to manage their obligations with regards to Pecuniary and Non-Pecuniary interests.

11.1 Conflict of Interests

1. A conflict of interests exists where a **reasonable and informed** person would perceive that the Council official could be influenced by a private interest when carrying out their public duty.
2. Council officials must avoid or appropriately manage any conflict of interests. The onus is on the Council official to identify a conflict of interests and take the appropriate action to manage the conflict in favour of the public duty.
3. Any conflict of interests must be managed to uphold the probity of Council decision making. When considering whether or not a conflict of interests exists, it is always important to think about how others would view your situation.
4. Private interests can be of two types: pecuniary or non-pecuniary.

Model Code

11.2 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 the Minister is of the opinion:

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

LGA Sec 458

11.3 What is a pecuniary conflict of interest?

1. 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.
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 the matter or if the interest is of a kind specified in section 448 of the Act.

LGA Sec 442 (1-2)

11.4 What is a non-pecuniary conflict of interests?

1. Non-pecuniary interests are private or personal interests the Council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

Prac Note

11.5 Disclosure of Pecuniary and Non-Pecuniary Interests

Pecuniary Interests

1. Declarations of pecuniary and non-pecuniary interests must be made at all Council and Committee meetings prior to dealing with any substantive items on the Agenda.
2. A Councillor who has a pecuniary interest in any matter with which Council is concerned and who is present at a meeting of Council or a Committee at which the matter is being considered must disclose the interest and the nature of the interest to the meeting as soon as practicable.
3. 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.
4. Though a conflict of interest is not covered by the provisions of the Act, the Councillor must not be in the meeting room at the time the vote is taken as his presence and not voting is taken to be a vote in the negative.
5. Councillors who aren't allowed to take part in a discussion because of a pecuniary interest cannot escape this by addressing the meeting as a 'resident' or 'ratepayer'.
6. The disclosure of a conflict will be recorded in the minutes of the meeting and a record kept by Council.

Prac Note

Non-Pecuniary Interest

7. A Councillor who has a non-pecuniary interest in any matter with which Council is concerned, and who is present at a meeting of Council or a Committee at which the matter is being considered, must disclose the interest and the nature of the interest to the meeting as soon as practicable.
8. Where insignificant conflict is declared, the Councillor must provide reasons why they choose to remain in the Chamber and participate in discussion and voting i.e. why the conflict has not influenced them in carrying out their public duty.
9. Declaration of interest forms must be completed and include reasons for declaring significant and insignificant declarations.

10. Councillors who aren't allowed to take part in a discussion because of a non-pecuniary interest cannot escape this by addressing the meeting as a 'resident' or 'ratepayer'.
11. The disclosure of a conflict will be recorded in the minutes of the meeting and a record kept by Council.

Prac Note

11.6 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 the nature of any pecuniary interest the person has in a 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.

LGA Sec 456

11.7 Circumstances Where Disclosure Rules are not breached

A person does not breach section 451 or 456 of the Local Government Act 1993, 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.

LGA Sec 457

11.8 Disclosure to be recorded in Minutes

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

LGA Sec 453

11.9 Political donations exceeding \$1,000

1. Matters before Council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.
2. Councillors must take all reasonable steps to ascertain the source of any political contributions that directly benefit their election campaigns.
3. Where a Councillor or the Councillor's "official agent" has received "political contributions" or "political donations", as the case may be, within the meaning of the *Election Funding and Disclosures Act 1981* exceeding \$1,000 which directly benefit their campaign:
 - a. from a political or campaign donor or related entity in the previous four years; and
 - b. where the political or campaign donor or related entity has a matter before Council, then the Councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 11.5.

Local Govt Circular 08-45

11.10 Disclosure required for reportable political donations or gifts

1. A reportable political donation is defined in the *Election Funding and Disclosures Act 1981* as a donation of \$1000 or more made to or for the benefit of the party, elected member, group or candidate or made by a major political donor to or for the benefit of a party, elected member, group or candidate, or made to the major political donor.
2. A reportable gift, as defined in the *Election Funding and Disclosures Act 1981* includes a disposition of property or a gift of money or the provision of other valuable or service for no consideration or for inadequate consideration.
3. A donation of less than \$1000 can be a reportable political donation if the aggregated total of such donations made by an entity or person to the same party, elected member, group or candidate or person within the same financial year (ending 30 June) is \$1000 or more.
4. A reportable donation or gift must be disclosed when a development or planning application is made to a Council, the Director-General or the Minister. A disclosure is required to be made in a statement accompanying the relevant development or planning application by the person who makes the application. In addition, a person who makes a written submission either objecting to or supporting a relevant development or planning application must also make a disclosure if the person has made a reportable political donation.
5. Such disclosures are required to cover a period of two years before the application or submission is made and end when the application is determined. If a donation or gift is made after the lodgement of the required disclosure statement, a further statement is required to be provided within seven days after the donation or gift is made.
6. The declaration of a political donation or gift is not relevant to the determination of any development application or planning matter.

Local Govt Circular 08-45

11.11 Register of decisions of Council

1. The General Manager is required to keep a register **for each planning decision** made at a Council or Committee meeting, the names of Councillors who supported the decision and any Councillors that opposed (or are taken to have opposed) the decision.
2. 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.
3. 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.
4. This section extends to a meeting that is closed to the public.

LGA Sec 375A (2-5)

PART 12 - QUESTIONS AND TABLING OF MATTERS

12.1 Questions to Councillors and Employees

1. A Councillor:
 - a. may, through the Chairperson, put a question to another Councillor, and
 - b. may, through the Chairperson to the General Manager, put a question to a Council employee.

However, it is considered better practice for the information to be sought from the appropriate employee prior to the meeting.

2. 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 before answering the question.
3. 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.

Reg 249 (1-4)

12.2 Questions which due notice has been given

1. Questions on Notice must be lodged in writing with the General Manager or specified delegate no later than 12.00 noon on the Tuesday of the week preceding the Council Meeting at which the Questions on Notice are to be considered.
2. Questions on Notice must directly relate to the business of Council and must comply with the Local Government (General) Regulation 2005 which provides at Clause 249 that a "Councillor must put every such question directly, succinctly and without argument".
3. Questions should not contain:
 - a. statements of facts or names of persons unless they are strictly necessary to render the question intelligible and can be authenticated;
 - b. argument;
 - c. inference; or
 - d. imputation.
4. Questions should not ask for legal opinion to be provided at the Council meeting.
5. Questions should not refer to confidential matters that have been previously, or are yet to be, discussed by Council in closed session, nor refer to confidential matters as listed in Section 10A(2) of the Local Government Act 1993.
6. The General Manager or specified delegate may exclude from the agenda any Question on Notice which may have the effect of exposing a Councillor, the Council, or a member of staff, to an action for defamation.

7. The General Manager or specified delegate may return to a Councillor any Question on Notice that does not comply with the Code of Meeting Practice and provide a written reason. The question may be rewritten and resubmitted in accordance with this clause.
8. The Mayor may rule that a Question on Notice does not comply with the Code of Meeting Practice, and in such cases the Mayor is to provide a written reason for such a decision.
9. The Council business papers may include Supplementary Answers to Previous Questions, following Questions on Notice.
10. Should a Question on Notice have any resource implications, financial or otherwise, the General Manager will advise Council. This advice will be included in the business paper.

Supp Prov

12.3 Questions without Notice

1. Questions Without Notice must directly relate to the business of Council and must comply with the Local Government (General) Regulation 2005 which provides at section 249 that a "Councillor must put every such question directly, succinctly and without argument".
2. Matters which may be routinely dealt with administratively should generally not be made the subject of a Question Without Notice.
3. Questions may be read and are subject to the same rules as Questions on Notice (see Clause 12.2).
4. Questions should not refer to confidential matters that have previously been, or are yet to be, discussed by Council in closed session, nor refer to confidential matters as listed in Section 10A(2) of the Local Government Act 1993.
5. The provisions of section 256 (1) of the Regulation, relating to acts of disorder, apply to Questions Without Notice.
6. Question time of a Council Meeting should not be used to avoid the notice provisions of clause 241 of the Regulation.

Supp Prov

7. A Question Without Notice need not be answered unless endorsed by resolution of Council where, in the opinion of the Chairperson, it would:
 - a. normally require the presentation of a report after consideration by a Committee or by the General Manager;
 - b. be regarded as a sensitive issue or be one not likely to have the total support of Council; or
 - c. require the commitment or redirection of significant resources.
8. Reply to a Question Without Notice should be directed to the Councillor at a future ordinary meeting of Council held on the first or third Wednesday of the month or as otherwise directed by the Mayor.

12.4 Register and tabling of returns disclosing interests

1. The General Manager must keep a register of returns disclosing interests of Councillors and designated persons required to be lodged with the General Manager under section 449 of the Act.
2. The returns required to be lodged with the General Manager under section 449 must be tabled at a meeting of the Council, being:
 - a. in the case of a return lodged in accordance with section 449(1) of the Act, the first meeting held after the last day for lodgement under that subsection; or
 - b. in the case of a return lodged in accordance with section 449(3) of the Act, the first meeting held after the last day for lodgement under that subsection; or
 - c. in the case of a return otherwise lodged with the General Manager, the first meeting after the lodgement.

LGA Sec 450A (1-2)

12.5 Department of Local Government Report

1. When a report of a Department of Local Government representative has been presented to a meeting of a Council in accordance with section 433 of the Act (*that is, investigation of Council ordered by the Director General of the Department of Local Government*), 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.

Reg 244

12.6 Format of Staff Reports and Recommendations

1. All staff reports are to be made to the General Manager who will exercise discretion on their presentation to Council or a Committee.
2. Where two or more feasible alternatives arise from a staff report, the General Manager may decide the alternative to be recommended to Council or a Committee for consideration.
3. To facilitate the choice of an alternative, in those cases when all alternatives comply with existing policies, the alternatives should be clearly defined.
4. Staff reports should include a single recommendation:
 - a. Where clearly defined policy exists; or
 - b. Where there are professional grounds to support the recommendation in the absence of, or despite a clearly defined policy.
5. Items of correspondence and other issues may be referred to Committees to obtain expressions of opinion or guidelines for subsequent reporting.

6. Each report is identified by the position of the originating Senior Officer.
7. Report items and minute numbers for each Committee and for Council meetings (Ordinary and Extraordinary are considered as one) are numbered consecutively from the commencement of a new Council and continuing for the term of Council.

Supp Prov

12.7 Information Reports

1. If in an Information Report recommendations are made, the decision of Council may be separately made on each recommendation.
2. The recommendations of Information Reports are, so far as adopted by Council, resolutions of Council.
3. Information Reports may be considered by Council either:
 - a. Individually
 - b. By nominated exception
 - c. or englobo
4. The method of adoption of Information Reports will be:
 - a. The Chairperson will call for a motion that indicates the manner in which the Information Reports will be considered.
 - b. Should Council resolve to consider the Information Reports individually the reports will be considered in the same manner as Staff Reports.
 - c. Should Council resolve to consider the Information Reports by nominated exception the Chairperson will:
 - invite Councillors to call the report and page number of any report they may require to be excluded from the general resolution adopting the remainder of the Information Reports and recommendations in its entirety.
 - Seek a mover and seconder for the following motion:

“That the Information Reports and recommendations with the exception of reports numbered,, (etc), be adopted.
 - Following adoption of the motion referred to above, the Chairperson will then call the excluded numbers “seriatim” calling in turn on the Councillor who requested the exclusion to move a motion in respect of that matter. The Councillor may:
 - i. Move a motion in conflict with the recommendation; or
 - ii. Move adoption of the recommendation and seek further information form the Chairperson or Officers for the purpose of clarification.
 - d. Should the Council resolve to adopt the Information Reports englobo the following resolution will be made:

“That the Information Reports of the Ordinary Meeting of Council be received and the information noted”.

Supp Prov

12.8 Petitions

1. The Mayor and Councillors may table original petitions at meetings of Council.
2. If notice of the petition has not been given Council must not discuss the matter, unless a motion is passed in accordance with section 241 (3) of the Regulation, but may resolve to receive and note the petition or to include the petition on the agenda of the next meeting of the relevant Committee.

LGA Sec 367(1) & Reg 241(1) & (3)

3. Care should be taken to follow the *Privacy and Personal Information Protection Act 1998 (NSW)* (PPIPA) with respect to the use and communication of personal information contained in petitions. Section 18 of the PPIPA provides that a Council may not communicate personal information unless it is directly related to the reason why the information was collected, and the Council has no reason to believe that the person concerned would object.
4. Communication of the information can also take place if a person is likely to have been aware (or has been made aware in line with section 10 of PPIPA) that this type of information is usually told to another person or organisation.

Prac Note

PART 13 - MOTIONS

13.1 Notice of Motion and Notices of Rescission

Form of lodgement and content

1. All Notices of Motion and Notices of Rescission intended for consideration at any meeting are to be lodged with the Council by 12.00 noon on the Tuesday of the week preceding the Council Meeting.
2. The General Manager must not include in the business paper for a meeting of Council or Committee of 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 or outside the jurisdiction of Council or Committee of Council. The General Manager may on his or her own initiative make such alterations, corrections or amendments as will put such notice of motion into appropriate form (without changing its substance). In either such event the General Manager will, as soon as is practicable, inform the author of the notice of motion of the action which the General Manager has taken and the reasons for that action.
3. The General Manager must report without giving details of the item of business any such exclusion as per sub-clause 2 to the next meeting of Council (without disclosing the details of the item of business).

Reg 240(2)

4. To make sure that Council's intention is clear, it is considered best practice to expressly state that a later resolution is to replace an earlier one. In this way, the public, Council staff and subsequent Councillors can understand and act with certainty on Council decisions.
5. Section 372(5) of the Act allows an original motion to be negated (that is, lost) twice before a three month ban is placed on any Councillor putting forward another motion to the same effect.
6. When a motion is not passed, this will result in no decision being made or no opinion being expressed by Council. It does not mean that Council takes the opposite view or position to that expressed in the motion.
7. If Council passes a resolution and a rescission motion is lodged at the same meeting, the rescission motion can be dealt with at the same meeting which the resolution is passed provided that a minimum of thirty minutes notice is given. If the matter is genuinely urgent, it could be dealt with under clause 241 (3) of the Regulation.
8. While not specifically covered in section 372 of the Act, it would appear that a Council could rescind part of a resolution (without rescinding the whole resolution).
9. Section 372(4) of the Act requires a notice of rescission motion to have the signatures of three, and only three Councillors if less than three months has passed since the original resolution was made.

13.2 Rescinding a resolution granting development consent

1. Under section 83 of the EP&A Act, development consent has effect from the date endorsed on the written notification (subject to any appeal action). It would be possible for a Council to rescind a resolution giving consent if the applicant has not been formally advised of the consent.
2. Once the applicant has been formally advised of Councils decision, there may be issues of compensation to the applicant if consent is later rescinded.
3. Section 82A(9) of the EP&A Act states that if the Council changes a determination, this will replace the earlier determination from the date of the review. A changed determination automatically replaces the earlier determination by virtue of section 82(A)(9) of the EP&A Act. Council is not required to pass an alteration or rescission motion to change an earlier determination.

13.3 Acting on Council decisions that are subject to a motion for rescission?

1. If a notice of a rescission motion is given during the meeting at which the resolution is carried, the resolution must not be put into effect until the rescission motion has been dealt with.

LGA Sec 372(2)

13.4 Notice of Motion - Absence of Mover

1. In the absence of a Councillor who has placed a Notice of Motion on the business paper for a meeting of a Council or a Committee:
 - 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 such motion can be considered.

Reg 245

13.5 Motions to be Moved and Seconded

1. A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clause 10.6(2) (*Mayoral Minute*) and clause 13.7 (*Limitation as to Number of Speeches*).

Reg 246
2. The seconder of the motion speaks after the mover, and may choose to hold over their speaking rights until later in the debate. However, a procedural motion could be passed putting an end to debate before the seconder has spoken.
3. At the end of the debate, the chairperson puts the motion to the meeting for vote. If passed by the majority, the motion becomes a formal resolution of Council.

13.6 Limitation as to Number of Speeches

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 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 a motion or an 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 of 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.

Reg 250 (1-7)

13.7 The number of motions able to be put forward by a Councillor

1. As long as notice and other procedures are followed, Councillors can put forward as many motions as they wish.
2. When putting forward motions, Councillors need to consider the balance between their civic responsibility for representing the interests of the community with their obligation to use Councils resources effectively and efficiently.

13.8 Interruption of Speaker

1. Subject to clause 13.7 (*Limitation as to Number of Speeches*), a speaker will not be interrupted except on a point of order.
2. A speaker interrupted by a point of order shall resume their seat until the Chairperson has ruled on the point of order whereupon the speaker shall proceed with the debate.

13.9 Motions put Without Debate

1. The Chairperson may call over the Notices of Motion on the business paper in the order in which they appear thereon and, in the absence of nay objection, move a motion that all such motions be adopted.

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13.10 Amendments to Motions

1. An amendment is a proposition to alter a motion that is under consideration by the meeting and is not subject to the notice of motion requirements set out at Clause 13.1.
 2. An amendment must be moved and seconded.
 3. The amendment must be dealt with before voting on the main motion takes place.
 4. To be accepted as an amendment, it must relate to the motion.
 5. The amendment must also be moved before the debate on the motion has been concluded and the right of reply of the mover of the motion has been exercised.
 6. An amendment cannot be accepted if it is a direct rebuttal of the motion it seeks to amend.
 7. An amendment should not be moved that is substantially the same as an earlier rejected amendment on the motion.
 8. An amendment that is in opposition to an amendment already accepted should not be moved or accepted for debate.
 9. In the situation where a number of amendments have been *foreshadowed*, it is important that they should be considered in due succession ensuring the practicality of the motion.
 10. Each amendment is separately considered and voted on.
 11. Only one amendment may be considered by the meeting at any one time. Debate is confined to the amendment under consideration although during debate a Councillor may foreshadow a motion or amendment.
 12. Once an amendment has been moved and seconded, it cannot be withdrawn without the consent of the meeting.
- Supp Prov*
13. If the amendment is passed, the motion is changed to include the amendment and this new motion is debated. If the amendment is not supported, the main motion stays in its original form and debate resumes.
 14. If passed, the amended motion becomes the resolution.

13.11 How Subsequent Amendments may be Moved

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.
Reg 247
2. Once the amendment has been decided debate resumes.
3. If several amendments are proposed, each should be moved, seconded, debated and voted upon prior to the next. Amendments should be debated in the order in which they were put to the meeting.

13.12 Motions without Notice

1. Despite subclause 13.1(1), business may be transacted at a meeting of a Council even though due notice of the business has not been given to the Councillors. However, this may only occur 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.
2. Subject to the conditions of subclause (1) above being fulfilled then a motion can be moved without notice.
Reg 241(3-4)
3. If, after the Councillor has addressed the Council, the Chairperson has ruled the matter is of great urgency, then the motion is moved, seconded, debated and voted on.
4. If the Chairperson rules the motion is not urgent, then no further debate on the matter is to be permitted.
5. If the Chairperson rules the motion is not urgent, a Councillor may move a Motion of Dissent.

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13.13 Notice of motion given before a Council election

1. If a notice of motion is given before a Council election and the proposed mover is not re-elected to the Council the Council can debate a motion that has been properly submitted.
2. Whether the motion is actually debated will depend on whether another Councillor moves and seconds the motion at the meeting.
3. If the motion does not have support at the Council Meeting, then it may lapse for failure to get a mover or seconder, or be defeated in a vote.

Prac Note

13.14 Order of Notices of Motion

1. All notices of motion will be dated and numbered as received and will be entered by the General Manager upon the business paper in the order in which they are received, except where a notice of motion is deferred pursuant to clause 13.15 of this Code.

13.15 Deferral of Notice of Motion

1. If a notice is lodged for inclusion in the ordinary meeting business paper, the Mayor may nevertheless determine in the first instance to refer the notice of motion to the General Manager for report and recommendation to Council.

13.16 Time limit on debate

1. Debate on any item of business on the agenda or transacted without notice may not continue for more than **45 minutes**. At the expiration of this time from the commencement of the debate, the Chairperson will put the question, irrespective as to whether a Councillor is speaking at the time, after permitting the mover of the motion **three minutes** right of reply.
2. The question will be put in the following form:
Chairperson: "The time for debate has expired. Under the Code of Meeting Practice of this Council, I may now put the question. The mover of the motion has **three minutes** right of reply."
3. There will be rare occasions when an issue before the Council is one of great moment when limiting debate appears inappropriate. In these cases a Councillor must move, prior to the commencement of the debate, that the time for debate be limited in this instance only to 'x' minutes.

PART 14 - PROCEDURAL MOTIONS

14.1 General Procedural Motions

1. A procedural motion is a motion that refers to the conduct of a meeting.
2. Procedural motions are not subject to the notice of motion requirements in Clause 13.1.
3. In general, a procedural motion requires a seconder.
4. There is no debate on a procedural motion.
5. A procedural motion has precedence over substantive motions and must be put to the meeting for a decision in accordance with Clause 14.1.

Supp Prov

14.2 Point of Order

1. A Councillor may draw the attention of the Chairperson to an alleged breach of the Code of Meeting Practice.
2. The Councillor shall draw the attention of the Chairperson by raising a 'Point of Order'. A Point of Order does not require a seconder.
3. A Point of Order must be taken immediately it is raised.
4. The Chairperson must suspend business of the meeting and permit the Councillor raising the Point of Order to state the meeting procedure(s) he/she believes has been infringed.
5. Immediately this has been done, the Chairperson should rule - either upholding the Point of Order or overruling it.

Supp Prov

14.3 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 of the meeting until a decision is made on the motion of dissent.

Reg 248 (1)

2. The wording for a motion of dissent will be in the form:-
"I move dissent from the Chairperson's ruling in respect of "(insert matter of dissent and item number and heading or other detail as appropriate)".

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3. If the voting on a motion of dissent is equal the Chairperson may exercise a casting vote.
4. Despite subclause 13.5 (*Notice of Motion – Absence of Mover*), 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.
5. 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.

Reg 248 (2-3)

14.4 Motions on Adjournment

1. A motion for adjournment of a Council or Committee meeting must be seconded.
2. Discussion will not be permitted on any motion for adjournment of the Council or a Committee meeting. If upon the question being put on any such motion the same is defeated, the subject then under consideration, or next on the business paper, will be discussed; and it will not be permissible for any member again to move a motion for adjournment of the Council or the Committee until half an hour has elapsed from the time of moving the motion that had been defeated.

Supp Prov

PART 15 - ORDER AT MEETINGS

Councillors have a responsibility to behave professionally in and out of Council Meetings. Councillors should maintain good working relationships with each other and staff and act in a manner appropriate to their civic status. This would include orderly behaviour and complying with rulings from the Chairperson at Council Meetings.

The Chairperson has both the responsibility and authority to ensure order at meetings.

15.1 Observe the Code of Conduct and Code of Meeting Practice

1. Councillors, employees of Council and other persons at the meeting are required to observe the Code of Meeting Practice at all meetings of Council.
2. A Councillor or an employee who fails to observe the Code of Meeting Practice may be subject to a complaint under the Code of Conduct (Clause 6 of the Code of Conduct).
3. The Chairperson of the meeting, a Councillor, employee or any other person in attendance may report in writing to the General Manager a complaint alleging a breach of the Code of Meeting Practice to the Councillor.

Supp Prov

NOTE: Refer to Section 6 of Council's Code of Conduct for more detailed information.

15.2 Who is responsible for maintaining order?

1. When disorder at a meeting occurs, the Chairperson has both the responsibility and authority to bring the meeting to order, including expelling Councillors and others who cause disorder.

15.3 Questions of Order

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.
Reg 255 (1)
2. The Chairperson, without the intervention of any other Councillor, shall ensure Councillors during debate relevantly keep to the matter before the meeting whether it be a motion, an amendment, a point of order or a personal explanation.
Supp Prov
3. A Councillor who claims that another Councillor has committed an act of disorder, may call the attention of the Chairperson to that matter only immediately a breach is evident.
Reg 255 (2)
4. Examples of points of order are:
 - a. personal remarks about other Councillors
 - b. departing from procedures contained within Council's Code of Meeting Practice
 - c. breaching Council's Code of Conduct

- d. referring to irrelevant subject matter during the course of debate
- e. improper decorum such as offensive language or behaviour
- f. discussing matters not before the Council
- g. factual errors

Examples which are NOT points of order are:

- h. disagree with the opinion of another Councillor
- i. disagreeing with a ruling by the Chairperson

Supp Prov

- 5. 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.
- 6. The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

Reg 255 (3-4)

15.4 Act 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;
 - b. assaults or threatens to assault another Councillor or person present at the meeting;
 - 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;
 - d. insults or makes personal reflections on or imputes improper motives to any other Councillor or staff member;
 - 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;
 - f. engages in conduct that is detrimental to the pursuit of the charter of a Council;
 - g. engages in improper or unethical conduct;
 - h. exercises abuse of power and other misconduct;
 - i. engages in action causing, comprising or involving any of the following:
 - i. intimidation, harassment or verbal abuse.
 - ii. discrimination, disadvantage or adverse treatment in relation to employment.
 - iii. prejudice in the provision of a service to the community.

Reg 256 (1)

- j. directs or influences, or attempts to direct or influence, a member of the staff of the Council or a delegate of the Council in the exercise of the functions of the member or delegate
 - k. fails to turn off a mobile telephone, or other electronic device, or attempts to use a mobile telephone when entering or in the Council Chambers or a Committee Room or any other location where a meeting of Council or a Committee of Council is being held.
2. The power to expel by the Chairperson, under Section 10(2) (a) or (b) of the Local Government Act 1993, applies to this clause.

15.5 Defamatory statements made at a Council Meeting

1. A statement may be defamatory of a person if it is likely to cause an ordinary reasonable member of the community to think less of a person or to shun or avoid the person.
2. Councillors, staff and members of the public can seek legal compensation, apology etc if they are defamed.
3. Councillors acting within their official capacity at meetings of Council or Council Committees have a defence of 'qualified privilege' to actions in defamation. This recognises that a Councillor may need to speak freely and publicly in carrying out their duties.
4. However, qualified privilege needs to be treated with great caution. It only covers statements made at a Council or Committee meeting when a Councillor is carrying out his or her duties and on business relevant to the Council. Statements also need to be made with good intentions, not malice.
5. A statement made outside of a Council or Committee meeting will not be protected by qualified privilege, but may be protected under the *Defamation Act 1974* (NSW). Councillors should be guided by their own legal advice on defamation issues.

Prac Note

15.6 Action resulting from a possibly defamatory statement made at a Council Meeting

1. It is the Chairperson's responsibility to make sure that the Council carries out its meetings in line with its Code of Meeting Practice and any relevant legislation.
2. Part of this responsibility is to maintain order at meetings. This includes requiring a Councillor to apologise for insults, personal comments, or implying improper motives with respect to another Councillor or member of staff.
3. If a Councillor refuses to apologise they may be expelled from the meeting for an act of disorder. This does not prevent legal action being taken.

Prac Note

15.7 How Disorder at a Meeting may be Dealt With

1. The Chairperson may require a Councillor:
 - a. to apologise without reservation for an act of disorder referred to in clause 15.4 of this Code;
 - b. to withdraw a motion or an amendment referred to in 15.4 of this Code; and, where appropriate, to apologise without reservation;
 - c. to retract and apologise without reservation for an act of disorder referred to in clause 15.4 of this Code; or.
 - d. to cease the action ruled as an act of disorder.
2. A Councillor may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a Council having failed to comply with a requirement under clause 15.4 of this Code. 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.

Reg 256 (2-3)
3. Council or a Committee may, as provided by Section 10(2) (a) or (b) of the Act, expel a member of the public from a Council or Committee meeting on the ground that the member is engaging in or has, at the meeting, engaged in disorderly conduct.

Reg 257(2)
4. Members of the public are required to turn off mobile telephones, or other electronic devices, when entering the Council Chambers, a Committee Room or any other location where a meeting of Council or a Committee of Council is being held.

Failure to comply with clause 4 an attempt to use a mobile telephone or electronic device in the Council Chambers or Committee Room or other location will be deemed to be an act of disorder and render the offender liable for expulsion from the room.

Electronic devices do not include equipment supplied by or approved by Council and used during an approved presentation to Council or a Council Committee or a briefing of Councillors.
5. Where authority has been delegated to the Chairperson by Council or a Committee of Council the Chairperson may expel a person (whether a Councillor or another person) from a meeting of Council or a Committee of Council for disorder or misconduct.
6. The power to expel by the Chairperson, under Section 10(2) (a) or (b) of the Local Government Act 1993, applies to this clause.

15.8 Disorder at Meetings - Adjournment

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 Chairperson, 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.

Reg 257 (1)

15.9 Warning to Councillors before expulsion

1. If the Chairperson of the meeting is of the view that the ongoing behaviour of a Councillor is disruptive to the good order of the meeting, the Chairperson:
 - a. shall warn the Councillor that he/she could face a motion to authorise removal from the meeting if he/she commits a further breach of the Code of Meeting Practice, then following such warning,
 - b. if a further breach occurs seek the views of the meeting as to the removal of the Councillor.

Supp Prov

15.10 Power to Remove Persons from Council Meeting

1. The power to expel a person or persons from a meeting is delegated to the Mayor or to another Chairperson of the meeting in respect of a Council meeting and to the Chairperson of each Council Committee of which all members are Councillors in respect of a meeting of that Committee.

Supp Prov

15.11 Power to Remove Persons from Meeting after Expulsion

1. If a Councillor or a member of the public fails to leave the place where a meeting of Council or Committee 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.

Reg 258

2. The power to expel by the Chairperson, under Section 10(2) (a) or (b) of the Local Government Act 1993, applies to this clause.

15.12 Councillor Misbehaviour

1. Under section 440G a Council may by resolution at a meeting formally censure a Councillor for misbehaviour.
2. Under section 440H, the process for the suspension of a Councillor from civic office can be initiated by a request made by Council to the Director General of the Department of Local Government.
3. The first ground on which a Councillor may be suspended from civic office is where the Councillor's behaviour has been disruptive over a period, involving more than one incident of misbehaviour during that period, and the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the Councillor's suspension.
4. Council cannot request suspension on this ground unless during the period concerned the Councillor has been:
 - a. formally censured for incidents of misbehaviour on two or more occasions; or
 - b. expelled from a meeting of the Council or a Committee of the Council for an incident of misbehaviour on at least one occasion.
5. The second ground on which a Councillor may be suspended from civic office is where the Councillor's behaviour has involved one incident of misbehaviour that is of such a sufficiently serious nature as to warrant the Councillor's suspension.
6. Council cannot request suspension on this ground unless the Councillor has been:
 - a. formally censured for the incident of misbehaviour concerned, or
 - b. expelled from a meeting of the Council or a Committee of the Council for the incident of misbehaviour concerned.
7. Under section 440H, the process for the suspension of a Councillor can also be initiated by the Department of Local Government, the Independent Commission Against Corruption or the NSW Ombudsman.

LGA Sec 440I

15.13 Rights of a Councillor who is suspended from office

1. The suspension of a Councillor results in that person being excluded from Civic Office during the period of suspension. It also means being excluded from the rights and privileges of that office during the period of suspension. If the Councillor is also the Mayor, they are excluded from exercising the function, rights and privileges of both 'Councillor' and 'Mayor' during the period of suspension.
2. A suspended Councillor/Mayor has no greater access to Council documents, Council information or Council facilities than any other resident or ratepayer.
3. The suspended Councillor/Mayor can attend Council Meetings, but only as a member of the public.

Supp Prov

PART 16 - CLOSED MEETINGS

16.1 Motion to Close Part of the Meeting

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 clause 16.2 (1) of this Code; or
 - b. the receipt or discussion of any of the information so listed.

LGA Sec 10A (1)

2. Although a Council decides whether the public is to be kept out of part of a meeting, the General Manager must first decide whether an item of business is *likely* to be discussed in a closed part of a meeting.

3. The Act directs the General Manager to indicate on the agenda (without details) that an item of business is *likely* to be discussed in a closed part of the meeting.

LGA Sec 9 (2A)

4. A Council can disagree that an item should be discussed in a closed part of the meeting. In this case, the item would be discussed during the open part of the meeting.

Prac Note

16.2 Grounds to close meetings

1. The matters and information for closing a meeting to the public are the following:
 - a. personnel matters concerning particular individuals (other than Councillors);
 - 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;
 - ii. confer a commercial advantage on a competitor of the Council;
 - iii. reveal a trade secret;
 - e. information that would, if disclosed, prejudice the maintenance of law;
 - f. matters affecting the security of the Council, Councillors, Council staff or Council property;
 - g. advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege;
 - h. information concerning the nature and location of a place or an item of Aboriginal significance on community land.
2. 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.

LGA Sec10A (2-3)

3. Matters on a personal or confidential nature, which do not come within that provided under section 10A (such as nominations for Australia Day Awards), cannot be discussed in the closed part of a Council or Committee Meeting (where the Committee is made up of Councillors only). Note that these matters can be delegated to a Committee made up of Councillors and Council Staff or Citizens. Such Committees are not bound by section 10A or the Act.

16.3 Limitations to Closing Meetings

1. A meeting is not to be closed during the discussion of anything referred to in section 10(A)(2) of the Act:
 - 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.

LGA Sec 10B (1)

16.4 Discussion of Legal Matters

1. A meeting is not to be closed during the receipt and consideration of information or advice referred to in Section 10A(2)(g) unless the advice concerns legal matters that:
 - a. are substantial issues relating to a matter in which the Council or Committee is involved;
 - b. are clearly identified in the advice; and
 - c. are fully discussed in that advice.

LGA Sec 10B (2)

16.5 Discussion of contractual conditions of senior staff

1. The contractual conditions of senior staff is public information and should be presented in open session. If other information that is common to all senior staff employed by Council is presented to the Council, then it should be also presented to an open meeting. This could include information on common contractual conditions, apart from salary.
2. If a matter concerns the senior staff as a whole, section 10A of the Act does not apply.
3. If Council wished to discuss, for example, the salaries of particular employees or consider the performance of the General Manager, then section 10A powers would be available to close part of a meeting.
4. Although the General Manager is responsible for senior staff employment, discipline and performance, there may be certain contractual matters that relate to individual senior staff that justify closure of part of a meeting on the grounds of privacy.

16.6 Motions to Close other Parts of a Meeting

1. 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 Section 10A (3)), 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 Section 10A (2)).

LGA Sec 10B (3)

16.7 Matters of Public Interest

1. 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.
2. Section 10B (4) is in similar terms to section 59A (Public Interest) of the *Freedom of Information Act 1989*.

LGA Sec 10B (4)

16.8 Department of Local Government Guidelines for Meeting Closure

1. 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 of the Department of Local Government.

LGA Sec 10B (5)

16.9 Representation by Public - closure of part of a meeting

1. A Council, or a Committee of 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.

LGA Sec 10A (4)
2. A representation at a Council or Committee 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.

Reg 252(1-2) & Reg 264 (1-2)
3. Representations will be limited to speakers with a genuine interest and be limited to one speaker. The speaker shall be allotted **three minutes**.

Supp Prov

16.10 Specifying Grounds for Closing Meetings

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 Section 10A(2);
 - b. the matter that is to be discussed during the closed part of the meeting; and
 - 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

LGA Sec 10D (1-2)

16.11 Notice of Closure not required in Urgent Cases

1. 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 section 10A (2), and
 - b. the Council or Committee, after considering any representations made under section 10A (4), 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.

LGA Sec 10C

16.12 Resolutions to be Made Public

1. 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.

Reg 253

PART 17 - VOTING AND DECISIONS OF COUNCIL

17.1 What Constitutes a Decision of the Council?

1. 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.

LGA Sec 371

2. Except where otherwise required by the terms or clear intention of a resolution, effect will not be given to any resolution of Council until 9.30 am on the fifth calendar day (Monday) after the date of the meeting at which the resolution was passed.

17.2 Council decisions bound when Councillors change

1. The Council is a body politic of the state and has 'perpetual succession'. This means that the Council is legally separate from the Councillors on it, and that Council decisions are not affected by changes in its Councillors.

LGA Sec 220

17.3 Limits on decisions Council can make before an ordinary election

1. Councils are allowed to make decisions on significant issues of a non-urgent nature just before an election. However, Council may decide to put off making decisions on certain significant matters so that the incoming Council may deal with them. These matters may be controversial in the community or require Council to spend large amounts of money.
2. Council should consider any legislative requirements they may have when deciding to defer any matters. For example, under the EP&A Act, Councils must determine development applications within fixed time periods.

17.4 Voting Entitlements of Councillors and Chairperson's Casting Vote

1. Each Councillor is entitled to one vote at a Council Meeting.
2. Each Councillor who is the member of the Committee is entitled to one vote at a Committee meeting.
3. The person presiding at a meeting of the Council or Committee has, in the event of an equality of votes, a second or casting vote.

LGA Sec 370 (1-2)

4. There is nothing in the legislation saying how a casting vote is to be used. This is a matter for the Chairperson to decide after considering all relevant information. Casting (or second votes) do not need to be used in the same way as the first vote.

Supp Prov

17.5 Voting at Council or Committee Meetings

1. A Councillor who is present at a meeting of Council or a Committee member present at a meeting of a Committee 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.
2. If a Councillor who has voted against a motion put at a Council or a Committee meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the meeting 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 two 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 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 Deputy Mayor is to be by secret ballot.

Reg 251 (1-5)

17.6 Certain circumstances do not invalidate Council decisions

1. Proceedings at a meeting of a Council or a Council Committee are not invalidated because of:
 - a. a vacancy in a civic office;
 - b. a failure to give notice of the meeting to any Councillor or Committee member;
 - c. any defect in the election or appointment of a Councillor or Committee member;
 - d. a failure of a Councillor or Committee member to disclose a pecuniary interest, to refrain from the consideration or discussion of, or vote on, the relevant matter, at a Council meeting in accordance with section 451 of the Act, or
 - e. a failure to comply with the Code of Meeting Practice.

LGA Sec 374

17.7 Rescinding or Altering Resolutions of the Council

1. A resolution passed by 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 13.1 (*Notices of Motion and Notices of Rescission*) of this Code.
2. If notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, or by 9:30am on the fifth calendar day after the meeting at which the resolution was passed, the resolution must not be carried into effect until the motion of rescission has been dealt with.
3. If a motion has been negated by Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with this Code.
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 negated by Council, must be signed by three Councillors if less than three months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
5. If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as previously negated motion, is negated, no similar motion may be brought forward within three months. This sub clause may not be evaded by substituting a motion differently worded, but in principle the same.
6. A motion to which this clause applies may be moved on the report of a Committee of Council and any such report must be recorded in the minutes.
7. The provisions of this clause concerning negated motions do not apply to motions of adjournment.

LGA Sec 372 (1-7)

8. A Councillor may withdraw a notice of motion before it is placed on the agenda.

17.8 Referendums

1. A constitutional referendum is a poll initiated by a Council in order to give effect to a matter referred to in sub-clause 2 of this clause.
- LGA Sec 15*
2. A council may not do any of the following unless approval to do so has been given at a constitutional referendum:
 - (a) divide its area into wards or abolish all wards in its area;
 - (b) change the basis on which the mayor attains office (that is, by election by the councillors or by election by the electors);
 - (c) increase or decrease the number of councillors in accordance with the limits under section 224; or
 - (d) change the method of ordinary election of councillors for an area divided into wards.

LGA Sec 16

PART 18 - COMMITTEES OF COUNCIL

18.1 Who makes and acts on Council decisions?

1. The Act requires Councillors as a group to direct and control the Council's affairs; allocate Council resources; determine Council policies and objectives; and monitor the Council's performance.

LGA Sec 223 & 232

2. The General Manager is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation, without undue delay, of decisions of the Council.

LGA Sec 335

18.2 Committees of Council

1. A Council can form Committees and determine their functions, powers, membership and voting rights. Membership of a Council Committee is not restricted to Councillors.
2. A Council Committee could be advisory or it could have decision-making powers as delegated by the Council. However a Committee can exercise a Council's regulatory functions under Chapter 7 of the Act only if all its members are either Councillors or Council employees (LGA Sec 379(1)).
3. Advisory Committees or Sub-Committees are common and usually have the power to make recommendations but not make decisions. The recommendations of advisory Committees can assist a Council in making informed decisions on complex matters.

Prac Note

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

LGA Sec 373

18.3 Appoint and Dissolve Committees

1. Council may appoint or elect such Committees as it considers necessary and may dissolve such Committees.
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.

Reg 260 (1-3)

4. For temporary absences, such as illness, an alternate Councillor can be appointed to act in the place of the Committee member. An alternate or acting member has the authority and role of the Committee member. Alternate members would be elected or appointed

under Clause 260 of the Local Government (General) Regulation, 2005, from among the Councillors. When acting as a Committee member, an alternative member would form part of the Committee's quorum.

5. A Councillor should not be nominated for a Committee or Sub-Committee unless he or she is present at the Meeting, or the absent Councillor has provided written consent to being nominated for a Committee.

18.4 Function of Committees

1. 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.

Reg 261

2. A Committee cannot act outside the extent of the functions granted by Council as specified in the adopted Charter for that Committee.
3. If Council, by resolution, delegates authority to the Committee to make decisions, then any decisions made by the Committee under such authority will be decisions of Council.

(Section 49(6), Interpretation Act 1987)

18.5 Confidential Session

1. All the provisions of this Code relating to meetings of Council, so far as they are applicable, extend to and govern the proceedings of Council or a Committee of which all members are Councillors when in Confidential Session.
2. If Council or a Committee passes a resolution during a meeting or part of a meeting that is closed to the public the Chairperson, must make the resolution public as soon as practicable after the meeting or part of the meeting has ended. It is not necessary to report the proceedings in full but any recommendations of the Confidential Session must be reported.

Reg 253

3. Council must ensure that a report of the proceedings is recorded in the Council's minutes. However, Council is not taken to have adopted the report until a motion for adoption has been made and passed.

18.6 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.

Reg 259 (1-3)

18.7 'Closed Council' vs 'Committee of the Whole'

1. Section 10A of the Act makes it clear that both Council and Council Committees (made up of Councillors only) can close parts of their meetings. If a Council closes part of its meeting, it still remains part of the Council Meeting, with the rules of debate being the same as for open meetings.
2. Only if a Council resolves itself into the 'Committee of the Whole' under clause 259 of the Regulation, does part of the Council Meeting become a Committee Meeting. The Committee of the Whole remains open to the public unless the Council closes it to discuss one of the matters referred to in section 10A(2) of the Act.
3. The only advantage of a Council forming a Committee of the Whole is to overcome the limits on the number and duration of Councillor speeches referred to in clause 250 of the Regulation.

18.8 Notice of Committee meetings to be given

1. The General Manager of a Council must send to each Councillor, at least three 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 three days may be given of a Committee meeting called in an emergency.

Reg 262 (1-2)

18.9 Councillors Entitled to Attend Committee Meetings

1. The Mayor is automatically a member of each Council Committee consisting of Councillors only. It is up to the Mayor as to whether he or she will attend the meetings of each Committee.
2. 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.
3. However, the Councillor is not entitled:
 - a. to give notice of business for inclusion in the agenda for the meeting;
 - b. to move or second a motion at the meeting;
 - c. to vote at the meeting.

Reg 263 (1-2)

4. Where the Council or a Committee of Council resolves that a Councillor with a disclosed pecuniary interest or conflict of interest will retire from the meeting and will not be present during discussion of that matter the Councillor will be excluded from being present in the area defined as the Council Chamber in the definitions in this Code.

LGA Sec 451

18.10 General Public Attendance at Committee Meetings

1. Except as provided by this clause:
 - a. Everyone is entitled to attend a meeting of Council and those of its Committees of which all the members are Councillors, except as provided by this clause.
 - 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 of the Council or of such a Committee if expelled from the meeting:
 - a. by a resolution of the meeting; or
 - b. by a ruling of the Chairperson if the Council has, by resolution, authorised the Chairperson to exercise the power of expulsion.

The Chairperson's ruling to expel a person from a meeting is subject to a motion of dissent moved and dealt with in accordance with Part 15 – Order at Meetings, of this Code.

18.11 Attendance of a member of the public to a closed part of a meeting

1. The Act or Regulation does not limit the attendance of members of the public at closed parts of meetings if invited by Council. However, the non-disclosure provisions of section 664 of the Act would apply to a person attending a closed part of a meeting.
2. Similarly, there does not appear to be any direct breach of the Model Code of Conduct, although such invitations may affect Council's appearance of impartiality and proper conduct in a matter. The better practice is to invite only those people whose presence at the meeting is necessary for the provision of advice, such as Council's solicitor.

18.12 Chairperson and Deputy Chairperson of Committees

1. The Chairperson of each Committee of the Council must be:
 - a. the Mayor;
 - 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.

Reg 267 (1-4)

18.13 Addressing Committees

1. Members of the public may address meetings of Committees on items that are on the Committee agendas, subject to the approval of the relevant Committee.
2. Members of the public wishing to address meetings of Committees must apply in writing to the General Manager no later than 12 noon on the Tuesday of the week preceding the Committee Meeting.
3. The Committee Chairperson will ask members of the public to restrict their addresses to no more than **7 minutes** with a further **3 minutes** available for questions from Committee members.
4. Councillors may ask questions to clarify the position of the speaker or statements made.
5. The Committee Chairperson may suggest that if a satisfactory resolution to the matter on the agenda is being considered there may be no need for members of the public to address the Committee.
6. Committees, and Council staff on behalf of Committees, may invite applicants, consultants, Government authorities and other groups or individuals to provide a presentation to a Committee on a matter that is on the Committee agenda. Time limits for such presentations may be set by the Committee.

7. If there are a large number of people interested in the same item, one representative will be nominated to speak on behalf of a group and to indicate how many people they are representing.

Supp Prov

18.14 Voting Procedure in Committee

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).

Reg 265 (1-3)

18.15 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 three 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 in respect of a Committee that consists of all of the members of the Council.

Reg 268 (1-2)

Note. The expression *year* means the period beginning 1 July and ending the following 30 June as noted in the Dictionary to the Local Government Act.

18.16 Disorder in Committee meetings

1. The provisions of the Act and of this Regulation 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.

Reg 270

18.17 Certain persons may be expelled from Council Committee meetings

1. If a meeting or part of a meeting of a Committee of a Council is closed to the public in accordance with section 10A of the Act, any person who is not a Councillor may be expelled from the meeting as provided by section 10 (2) (a) or (b) of the Act.
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 that person from re-entering that place.

Reg 271 (1-2)

18.18 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 of any amendments moved to it;
 - b. the names of the mover and seconder of the motion or amendment; and
 - 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.

Reg 266 (1-2)

PART 19 - MINUTES AND ACCESS TO INFORMATION

19.1 Minutes of Meeting

1. The Council and each Committee must ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council and each Committee.
2. The minutes must, when they have been confirmed at a subsequent meeting of the Council or a Committee of which all its members are Councillors, be signed by the Chairperson at that subsequent meeting.

LGA Sec 375 (1-2)

19.2 Matters to be included in minutes of Council or Committee meetings

1. The General Manager must ensure that the minutes of Council meetings record:
 - a. all successful and unsuccessful motions and resolutions (including the grounds on which a meeting is closed to the public);
 - b. successful and unsuccessful amendments;
 - c. the names of the mover and the seconder of a motion and/or amendment;
 - d. whether the motion or amendment is passed or lost.

Reg 254

 - e. the names of Councillors who supported a planning decision and those that opposed the decision.

LGA Sec 375A

 - f. the names of all Councillors who voted in favour or against a motion or an amendment;
 - g. attendance of Councillors;
 - h. declarations of pecuniary interest and conflicts of interest by Councillors; and
 - i. circumstances relating to the absence of a quorum at or arising during a meeting, together with the names of the Councillors present.
2. Any entries in the minutes found to be incorrect, must not be altered or erased. Any mistake or omission will be the subject of a resolution at, and recorded in the minutes of, a subsequent meeting.
3. Any business arising from consideration of the Minutes of a previous meeting does not permit a matter to be the subject of further resolutions at that meeting.
4. On each page of the Council or Committee minutes there will be placed a heading setting out:
 - a. the nature of the meeting;
 - b. the date of the meeting; and
 - c. the page number.

5. Immediately after the conclusion of the last minute of a meeting of Council there will be placed a certificate to be signed by the Chairperson of the meeting at which the minutes are confirmed in or to the following effect:

"This is the final page of the Minutes comprising pages numbered to of the meeting of the (insert Council/.....Committee as appropriate) held on and confirmed on

.....
(This signature must be an original signature) Chairperson"

6. At the bottom of each page of the minutes of a meeting of the Council or a Committee there will be placed a certificate signed by the Chairperson of the meeting when the minutes are confirmed or by the General Manager or Public Officer if they are in attendance at the meeting when the minutes are confirmed, in/or to the following effect:

"This is page number of the Minutes of the Meeting of the (insert Council/.....Committee as appropriate) held on

.....
Chairperson"

This certificate must be signed (personally or by rubber stamp facsimile of the person's signature affixed personally).

19.3 How much detail should be shown in minutes?

1. The minutes should contain enough detail to make the Council's decisions understood, they are not meant to be a detailed transcript of Council proceedings nor a record of the behaviour of individual Councillors.
2. However, when a Council makes a decision against the recommendations of their officers or Council engaged experts, it is considered best practice to minute the reasons for this. Minuting the reasons for Council's decisions is particularly important when determining development applications against the recommendation of Council Officers.

19.4 Signing Council Minutes

1. Once the minutes have been confirmed at a subsequent meeting of the Council, the minutes must be signed by the person chairing that later meeting (LGA Sec 375(2)). It would be usual for the 'subsequent' meeting to be the next ordinary meeting of the Council or Committee.
2. It is best to sign the minutes immediately after their confirmation or as soon as practical after that meeting (without delay).

19.5 Inspection of the minutes of a Council or Committee Meeting

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.

Reg 272 (1-2)

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

3. Minutes of Council meetings are to be made accessible via the Cessnock City Council website to the Councillors and the public as soon as practicable following Council meetings.

Supp Prov

19.6 Accessing Council documents

1. Access for inspection must be provided to all Council documents referred to in sections 12(1), 12(2) and 12(5) of the Act, unless the document is exempt under section 12(1A) and 12(7).
2. Section 12 of the Act gives a right of access to 'everyone', not just people who are residents or ratepayers for the Council area. Access does not depend upon the reasons for the request being made.
3. Inspection of a document can be refused if the Council believes that allowing the inspection would be contrary to the public interest.
4. The Public Officer is responsible for determining if under sec 12 (or FOI) a document is to be made available for inspection. Restrictions under PPIPA and Copyright Act 1968 (Cth) also apply.
5. Refer to Access to Information Policy for more detailed information regarding accessing Council's information.

Supp Prov

19.7 Disclosure and misuse of information

1. A person must not disclose any information obtained in connection with administration or execution of this Act unless that disclosure is made:
 - a. with the consent of the person from whom the information was obtained;
 - b. in connection with the administration or execution of the Act;
 - c. for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings;
 - 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 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. Subsection (2) does not apply to:
 - a. the report of a Committee of a Council after it has been presented to the Council;
 - b. disclosure made in any of the circumstances referred to in subsection (1)(a)-(e);
 - 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.
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, for the purpose of gaining either directly or indirectly a financial 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.

LGA Sec 664 (1-3)

PART 20 – MISCELLANEOUS

20.1 Matters Not Covered by the Code

1. Where at a Council meeting matters arise which are not provided for in this Code, resort will 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.

20.2 Public Access to Correspondence and Reports

1. A 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 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 meetingwhen 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 section 10A (2) of the Act, are to be treated as confidential.

LGA Sec 11 (1-3)

20.3 Public Recording of Meetings prohibited without Council authority

1. A person may use photography, sound and video recording equipment to record the proceedings of a meeting of Council or a Committee of 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 Council or a Committee of Council for using or having used photography, or recording equipment 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, sound recording equipment includes a video camera and any electronic device (including mobile phones) capable of recording speech and vision, whether a magnetic tape is used to record or digital device is used to record or not.

Reg 273 (1-4)

20.4 Audio Recording of Council and Committee Meetings by Council

1. Meetings of Council and Committees, may be audio recorded by the Council, except for those portions which the Committee or the Council has resolved to close in accordance with Section 10A (2) of the Act.
2. The purpose of audio recording meetings of Council and Committees is to:
 - a. Ensure the accurate compilation of Minutes of those Meetings and to verify their accuracy upon confirmation of those Minutes;
 - b. Serve as a source of public information and education;
 - c. Serve as an information resource for Councillors and staff;
 - d. Ensure that there is a full and complete record of what transpires at Meetings which is available to Councillors, Staff and Members of the Public who have an interest in knowing what took place at particular meetings in order to facilitate follow up action; such being relevant to the proper performance of Council functions.
3. Appropriate signs shall be displayed in the Council Chamber (or any rooms utilised for audio recording of Council/Committee Meetings) alerting attendees to the fact that the proceedings are being recorded for the purposes of clause 20.4 of Council's Code of Meeting Practice.
4. At the commencement of each recorded meeting, the Chairperson is to make a statement to the effect that the meeting is being recorded. Prior to any address to a meeting by a member of the public, the Chairperson is to specifically counsel the speaker advising them to speak to the business before the meeting and to refrain from making personal imputations. The speaker is to be made aware that access to the audio recording might be obtained by subpoena or be sought and granted under the FOI Act.
5. Access to audio recordings (or requests for transcripts) by Councillors will be determined by the General Manager or the Director of Corporate & Community in accordance with sections 12(6) and 12A of the Act.
6. Proceedings of meetings of Council or its Committees are not protected by "privilege". This exposes any participant to the possibility that they may defame another person. Were Council to reproduce any such defamatory statement it would leave itself open to a charge of libel. For this reason, access by members of the public to audio recordings of meetings is to be by application under section 16 of the Freedom of Information Act. Access will be determined in accordance with the provisions of the Act.
7. An audio recording of Council or Committee meetings will be destroyed at the expiration of 3 months as per the General Disposal Authority for Local Government Records.

Supp Prov

20.5 Council Seal

1. A Council seal is like the signature of the Council. It approves the content of the document and shows what the Council has done or agreed to do.
 2. Clause 400(4) of the Regulation requires a Council resolution before each use of the seal. Requiring a resolution before the seal is used brings the document to the attention of the Councillors and makes sure that they are aware of which documents are being sealed.
 3. Council can resolve to approve a specific activity that requires the use of the seal on several occasions. For example, a resolution that authorises the transfer of certain Council land could also authorise the use of the seal for any contracts that are part of that transfer. As there are only a limited number of documents in a land transaction that need to be executed under seal, each one of these could be identified in the resolution authorising the purchase or sale of the land.
 4. In deciding whether the Council Seal should be used on a particular document, Council needs to consider any legislative requirements (for example, the *Conveyancing Act 1919* (NSW)) and also to clause 400(4) of the Regulation, which states that the seal of a Council must not be placed on a document unless the document relates to the business of the Council.
- Prac Note*
5. The **resolution must specifically refer to the document** and the document must relate to Council business.
 6. The seal of Council must be kept by the General Manager.
 7. 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 2 Councillors other than the mayor.
 8. 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.
 9. 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.
 10. For the purposes 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.

Reg 400 (1-5)

NOTE: Refer to Council's Procedure for Use of Council's Seal for more detailed information.

20.6 Council Prayer

1. The Council Prayer will be recited at the commencement of each meeting of Council.
2. Local Pastors or Priests may be invited to recite a blessing or prayer at the commencement of a Council Meeting.
3. The form of the Council Prayer will be:

Most gracious God,
We pray for the Council of the City of Cessnock,
Its members and officers,
Direct their work and influence their decisions
to advancement of your glory
and the safety and welfare of this City,
So that peace and happiness, truth and justice
and sound development,
May be established among us;
Through Jesus Christ our Lord.
Amen

Supp Prov

20.7 Acknowledgement of Traditional Owners of the Land

1. The Chairperson will acknowledge the traditional owners of the land.
2. The form of the acknowledgement will be:
Council acknowledges the traditional owners and custodians of the land upon which we are holding this meeting.

Supp Prov

20.8 Security and Banners at Council Meetings

1. As a matter of policy, Council will restrict numbers in the public area of Council Meetings in accordance with the Building Code of Australia.
2. Where it is apparent that meetings will attract a public gallery where numbers are likely to exceed the standards of the Building Code of Australia, Council will consider conducting the meeting at a larger venue.
3. Where there are reasonable grounds to suspect that the security of Councillors, staff or the public may be threatened, the General Manager is authorised to engage appropriate security personnel.
4. No objection will be raised to the display of banners or signs, subject to such banners or signs not representing a danger, obstructing vision or containing offensive material (as determined by Council).

Supp Prov

20.9 Meals at Council Meetings

1. Councillors and staff attending Council Meetings will be provided a dinner immediately preceding the meeting.
2. Councillors and staff attending Committee Meetings / Briefing Sessions / Workshops will be provided a light supper at the conclusion of the Committee Meeting / Briefing Session / Workshop if the session is scheduled to finish prior to 7 pm. For Committee Meetings / Briefing Sessions / Workshops scheduled to finish at or after 7pm a dinner will be provided at an appropriate time during or after the session.
3. At the conclusion of all meetings a light supper including alcohol will be provided for councillors, staff and invited guests.
4. Food and alcohol will be restricted to the Ante Room and will not be permitted in the Council Chambers.

Supp Prov

ATTACHMENT 1 PROCEDURE FOR ELECTION OF DEPUTY MAYOR

Objective

This procedure has been prepared to establish the process to be followed when electing a Deputy Mayor and in particular, when the vote is tied.

Procedure

Section 231(1) of the Local Government Act 1993 states: -

“The councillors may elect a person from among their number to be the Deputy Mayor.”

Clause 394 of the Local Government (General) Regulations 2005 states: -

“If a Mayor or Deputy Mayor is to be elected by the Councillors of an area, the election is to be in accordance with Schedule 7.”

Cessnock City Council has traditionally determined that the method of electing the Deputy Mayor is by way of open voting and in this regard, Part 2 of the Schedule is relevant. In regard to a tied vote Clause 6(2) is relevant. Clause 6 (2) states:

“If there are only two candidates and they are tied, the one elected is to be chosen by lot.”

The process for choosing by lot is clearly set out within Clause 12 of the Schedule and states: -

“To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen.”

While it is imperative that Council follow the process set out in Schedule 7 Council has resolved to establish the following procedure for future elections:

Where the vote for Deputy Mayor is tied, and the choosing of lots is to be carried out by the returning officer in accordance with Clause 12 of Schedule 7 of the Regulations, the tied candidates be permitted to nominate a scrutiner to:-

- i) check that the candidates names have been correctly written on the slips and placed in a suitable receptacle; and*
- ii) check the slip drawn by the returning officer to determine who is chosen.*

This procedure does not alter the process set out in Schedule 7, but simply adds clarity.