PENRITH CITY COUNCIL

# Policy Document

## POLICY NAME
Code of Meeting Practice

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227

## POLICY TYPE
Council Policy

## RESPONSIBLE DEPARTMENT
Governance

## RELATED DOCUMENTS
Code of Conduct

### Purpose
The purpose of the Code of Meeting Practice is to provide rules and procedures to govern the efficient and effective running of all applicable council meetings and committees.

### Policy statement
This Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is made under section 360 of the Local Government Act 1993 (the Act) and the Local Government (General) Regulation 2021 (the Regulation).

### Scope
This code applies to all meetings of councils and committees of councils of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

# Penrith City Council
# Code of Meeting Practice

*Based on the Model Code of Meeting Practice for Local Councils in NSW 2021*

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## 1 INTRODUCTION

This Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is prescribed under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2021* (the Regulation).

This Code of Meeting Practice applies to all meetings of councils and committees of councils of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code.

A council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, a code of meeting practice adopted by a council must not contain provisions that are inconsistent with the mandatory provisions of this Model Meeting Code.

## 2 MEETING PRINCIPLES

2.1 Council and committee meetings should be:

*Transparent*: Decisions are made in a way that is open and accountable.

*Informed*: Decisions are made based on relevant, quality information.

*Inclusive*: Decisions respect the diverse needs and interests of the local community.

*Principled*: Decisions are informed by the principles prescribed under Chapter 3 of the Act.

*Trusted*: The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.

*Respectful*: Councillors, staff and meeting attendees treat each other with respect.

*Effective*: Meetings are well organised, effectively run and skilfully chaired.

*Orderly*: Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

## 3 BEFORE THE MEETING

Timing of Ordinary Council Meetings

3.1 The council shall, by resolution, set the frequency, time, date and place of its ordinary meetings.

**Note: Under section 365 of the Act, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A.**

Extraordinary meetings

3.2 If the mayor receives a request in writing, signed by at least two (2) councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The mayor can be one of the two councillors requesting the meeting.

**Note: Clause 3.2 reflects section 366 of the Act.**

Notice to the public of council meetings

3.3 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council.

**Note: Clause 3.3 reflects section 9(1) of the Act.**

3.4 For the purposes of clause 3.3, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.

3.5 For the purposes of clause 3.3, notice of more than one (1) meeting may be given in the same notice.

Notice to councillors of ordinary council meetings

3.6 The General Manager must send to each councillor, at least three (3) days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

**Note: Clause 3.6 reflects section 367(1) of the Act.**

3.7 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

**Note: Clause 3.7 reflects section 367(3) of the Act.**

Notice to councillors of extraordinary meetings

3.8 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

Note: Clause 3.8 reflects section 367(2) of the Act.

Giving notice of business to be considered at council meetings

3.9 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted five (5) business days before the meeting is to be held.

3.10 A councillor may, in writing to the General Manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.

3.11 If the General Manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the General Manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.

3.12 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the General Manager must either:

(a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or

(b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.

Questions with notice

3.13 A councillor may, by way of a notice submitted under clause 3.9, ask a question for response by the General Manager about the performance or operations of the council.

3.14 A councillor is not permitted to ask a question with notice under clause 3.13 that comprises a complaint against the General Manager or a member of staff of the council, or a question that implies wrongdoing by the General Manager or a member of staff of the council.

3.15 The General Manager or their nominee may respond to a question with notice submitted under clause 3.13 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

Agenda and business papers for ordinary meetings

3.16 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.

3.17 The General Manager must ensure that the agenda for an ordinary meeting of the council states:

(a) all matters to be dealt with arising out of the proceedings of previous 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) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
(d) any business of which due notice has been given under clause 3.9.

3.18 Nothing in clause 3.17 limits the powers of the mayor to put a mayoral minute to a meeting under clause 9.6.

3.19 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.

3.20 Where the 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, the General Manager must ensure that the agenda of the meeting:

(a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
(b) states the grounds under section 10A(2) of the Act relevant to the item of business.

Note: Clause 3.20 reflects section 9(2A)(a) of the Act.

3.21 The General Manager must ensure that the details of any item of business which, in the opinion of the General Manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

Statement of ethical obligations

3.22 Business papers for all ordinary and extraordinary meetings of the council and

committees of the council must contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.

Availability of the agenda and business papers to the public

3.23 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council.

Note: Clause 3.23 reflects section 9(2) and (4) of the Act.

3.24 Clause 3.23 does not apply to the business papers for items of business that the General Manager has identified under clause 3.18 as being likely to be considered when the meeting is closed to the public.

Note: Clause 3.24 reflects section 9(2A)(b) of the Act.

3.25 For the purposes of clause 3.23, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors.

Note: Clause 3.25 reflects section 9(3) of the Act.

3.26 A copy of an agenda, or of an associated business paper made available under clause 3.23, may in addition be given or made available in electronic form.

Note: Clause 3.26 reflects section 9(5) of the Act.

Agenda and business papers for extraordinary meetings

3.27 The General Manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.

3.28 Despite clause 3.27, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:

(a) a motion is passed to have the business considered at the meeting, and
(b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

3.29 A motion moved under clause 3.28(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

3.30 Despite clauses 10.20–10.30, only the mover of a motion moved under clause 3.28(a)

can speak to the motion before it is put.

3.31 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.28(b) on whether a matter is of great urgency.

Availability of the agenda and business papers to the public

3.32 Circumstances will necessitate the distribution of urgent reports either prior to or at Ordinary, Extraordinary and Committee Meetings. Where the urgent items are distributed:

(a) prior to the meeting no additional time will be allowed for Councillors to read the report unless the meeting decides otherwise;

(b) at the meeting the chairperson shall determine a period of time, to allow Councillors to read the report, prior to the item being discussed or determined.

3.33 Urgent reports, other than those relating to confidential business, will be available to the public as soon as practicable after they have been printed but, in any event, will be available on the night of the meeting.

## 4 ADDRESSING THE MEETING AND SUSPENSION OF STANDING ORDERS

4.1 It is at the absolute discretion of the Council or the committee to determine whether or not a member of the public who has requested permission to address the meeting of the Council or committee of Council is permitted to do so.

4.2 Any member of the public may make a request to the General Manager, or Governance Manager by completing the form in full that is available on the council's website or provided on request for permission to address a meeting of the Council or a committee of the Council on the following basis:

a) up to 12 noon on the day of the meeting if the item on which the member of the public wishes to address the Council or committee is on the Agenda as part of the order of business for the meeting,

b) if the item, the subject of the address, is not to be included on the Agenda of the upcoming meeting, as part of the order of business for the meeting, then the details will be taken and Council advised of the request at the next available Ordinary Meeting. Council will then determine whether the request will be granted and whether a report is required to be presented at the same meeting at which the address will be heard.

4.3 The Council or committee may, notwithstanding clause 4.2, by resolution, allow a member of the public to address the meeting if it considers that the situation warrants such action.

4.4 Prior to addressing a meeting, the meeting may consider whether the material provided in the application is considered irrelevant, vexatious or frivolous and accordingly refuse an application to address the meeting. The meeting may call on the General Manager or on relevant Council staff, through a request to the General Manager, to provide advice as to whether the material is considered to be irrelevant, vexatious or frivolous.

4.5 The number of speakers on any one item is to be limited to three in support of any proposal and three in opposition except at the discretion of Council.

4.6 Any member of the public granted permission by the meeting of the Council or committee of the Council to address the meeting is required to limit the address to a maximum of 5 minutes. The Council or committee may, at its discretion, grant an extension of time of 3 minutes in appropriate circumstances.

4.7 It should be noted that speakers at meetings of the Council or Committee do not have absolute privilege (parliamentary privilege). A speaker who makes any potentially offensive or defamatory remarks about any other person may render themselves open to legal action.

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

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

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

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

4.8 A speaker may only address Council or Committee once on any particular item unless there are circumstances that, in the opinion of the Council, have changed substantially since Council's previous consideration.

4.9 A speaker seeking to address the Council or Committee and raise allegations about the Council of handling of a matter by staff must make such allegations in writing to the Mayor, in respect of Council or the General Manager, in respect of staff.

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

4.10 A request to address Council on a matter that is the subject of Legal proceedings will not be accepted.

4.11 A request by a Tenderer to address Council on a matter regarding a tender will not be accepted. Council may however accept a written submission provided by a Tenderer.

4.12 Once closed to the public no person, unless requested by the Committee, is entitled to address Committee of the Whole other than Council staff and Council advisors, and any information provided by Council staff or Council advisors shall be upon the request of the chairperson of the committee or by the direction of the General Manager.

4.13 On occasions it will be necessary for members of the public to make formal presentations to meetings of the Council or committees of Council to support applications or as a result of studies commissioned by the Council.

4.14 Any reports outlining the need for presentations should give some indication of the period of time which will be needed for the presentation.

4.15 It is at the absolute discretion of the Council or the committee to determine whether or not the presentation proceeds.

4.16 At every ordinary and extraordinary meeting of the Council it is necessary for a resolution to be passed to the effect that only so much of the standing orders be suspended as would prevent members of the public addressing or making presentations to the meeting.

4.17 If the Council is not prepared to suspend standing orders then the address or presentation to the Council cannot be made.

## 5 COMING TOGETHER

Attendance by councillors at meetings

5.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.

**Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.**

5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting, unless permitted to attend the meeting by audio-visual link under this code.

5.3 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However, the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.

5.4 A councillor's request for leave of absence from council meetings should, if

practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.

5.5 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.

5.6 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

Note: Clause 5.6 reflects section 234(1)(d) of the Act.

5.7 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the General Manager at least two (2) days' notice of their intention to attend.

The quorum for a meeting

5.8 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.

Note: Clause 5.8 reflects section 368(1) of the Act.

5.9 Clause 5.8 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

Note: Clause 5.9 reflects section 368(2) of the Act.

5.10 A meeting of the council must be adjourned if a quorum is not present:

(a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
(b) within half an hour after the time designated for the holding of the meeting, or
(c) at any time during the meeting.

5.11 In either case, the meeting must be adjourned to a time, date, and place fixed:

(a) by the chairperson, or
(b) in the chairperson's absence, by the majority of the councillors present, or
(c) failing that, by the General Manager.

5.12 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.

5.13 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the health, safety or welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster or a public health emergency, the mayor may, in consultation with the General Manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.

5.14 Where a meeting is cancelled under clause 5.13, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.2.

Meetings held by audio-visual link

5.15 A meeting of the council or a committee of the council may be held by audio- visual link where the mayor determines that the meeting should be held by audio-visual link because of a natural disaster or a public health emergency. The mayor may only make a determination under this clause where they are satisfied that attendance at the meeting may put the health and safety of councillors and staff at risk. The mayor must make a determination under this clause in consultation with the General Manager and, as far as is practicable, with each councillor.

5.16 Where the mayor determines under clause 5.15 that a meeting is to be held by audio-visual link, the General Manager must:

(a) give written notice to all councillors that the meeting is to be held by audio-visual link, and
(b) take all reasonable steps to ensure that all councillors can participate in the meeting by audio-visual link, and
(c) cause a notice to be published on the council's website and in such other manner the General Manager is satisfied will bring it to the attention of as many people as possible, advising that the meeting is to be held by audio-visual link and providing information about where members of the public may view the meeting.

5.17 This code applies to a meeting held by audio-visual link under clause 5.15 in the same way it would if the meeting was held in person.

The above Clauses 5.15 - 5.17 *Meetings held by audio-visual link* are to be read as standing alone from the following Clauses 5.18 - 5.29 *Attendance by councillors at meetings by audio-visual link.* Councillors may request approval to attend and participate in meetings by audio- visual link independent of a determination that a meeting be held by audio-visual link because of a natural disaster or public health emergency.

**Note: Where a council holds a meeting by audio-visual link under clause 5.15, it is still required under section 10 of the Act to provide a physical venue for members of the public to attend in person and observe the meeting.**

Attendance by councillors at meetings by audio-visual link

5.18 As required by clause 5.1, Councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members. However, where practicable all meetings will be held enabling audio-visual link attendance as permitted under this Code.

5.19 Councillors may attend and participate in meetings by audiovisual link if they are unable to attend in person. Attendance and participation by audiovisual link at meetings of the Council and Committees of the Council (of which all Councillors are members) may only occur in extenuating circumstances and with the prior approval of the General Manager. Extenuating circumstances might include for example, health and medical reasons, care giving, travel, attendance at funerals, and other family emergencies.

5.20 A request by a Councillor to attend by audiovisual link may include more than one meeting. Where a Councillor requests approval to attend more than one meeting by audiovisual link, the request must specify the meetings the request relates to in addition to the information required under clause 5.19.

5.21 A decision whether to approve a Councillor's request to attend a meeting by audiovisual link is at the discretion of the General Manager and is to be made in good faith under clause 5.19.

5.22 This code applies to a councillor attending a meeting by audio-visual link in the same way it would if the councillor was attending the meeting in person, subject to the provisions of the Local Government (General) Regulation 2021, Schedule 7, meaning where a councillor is not physically present and an election is held by any other method other than open voting, than a councillor will not be able to participate in that vote Where a councillor is permitted to attend a meeting by audio-visual link under this code, they are to be taken as attending the meeting in person for the purposes of the code and will have the same voting rights as if they were attending the meeting in person.

5.23 A councillor must give their full attention to the business and proceedings of the meeting when attending a meeting by audio-visual link. The councillor's camera must be on at all times during the meeting except as may be otherwise provided for under this code.

5.24 A councillor must be appropriately dressed when attending a meeting by audio visual link and must ensure that no items are within sight of the meeting that are inconsistent with the maintenance of order at the meeting or that are likely to bring the council or the committee into disrepute.

Entitlement of the public to attend council meetings

5.25 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public.

Note: Clause 5.23 reflects section 10(1) of the Act.

5.26 Clause 5.23 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.

5.27 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council 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.

Note: Clause 5.25 reflects section 10(2) of the Act.

Note: Clauses 15.13 and 15.14 confer a standing authorisation on all chairpersons of meetings of the council and committees of the council to expel persons from meetings. If adopted, clause 15.13 authorises chairpersons to expel any person, including a councillor, from a council or committee meeting. Alternatively, clause 15.13 authorises chairpersons to expel persons other than councillors from a council or committee meeting.

Webcasting of meetings

5.28 Each meeting of the council or a committee (of which all councillors are members) of the council will be audio recorded and uploaded on to the Council's website as soon as practical after the meeting.

5.29 At the start of each meeting of the council or a committee of the council, the chairperson must inform the persons attending the meeting that:

(a) the meeting is being recorded and made publicly available on the council's website, and
(b) persons attending the meeting should refrain from making any defamatory statements.

5.30 The recording of a meeting is to be made publicly available on the council's website:

a) at the same time as the meeting is taking place, or
b) as soon as practicable after the meeting.

5.31 The recording of a meeting is to be made publicly available on the council's website for at least 12 months after the meeting.

5.32 Clauses 5.28 and 5.29 do not apply to any part of a meeting that has been closed to the public in accordance with section 10A of the Act.

**Note: Clauses 5.26 – 5.30 reflect section 236 of the Regulation.**

5.33 Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

Attendance of the General Manager and other staff at meetings

5.34 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 of the members are councillors.

**Note: Clause 5.32 reflects section 376(1) of the Act.**

5.35 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.

**Note: Clause 5.33 reflects section 376(2) of the Act.**

5.36 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 employment of the General Manager.

**Note: Clause 5.34 reflects section 376(3) of the Act.**

5.37 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the General Manager.

5.38 The General Manager and other council staff may attend meetings of the council and committees of the council by audio-visual-link. Attendance by council staff at meetings by audio-visual link (other than as members of the public) shall be with the approval of the General Manager.

## 6 THE CHAIRPERSON

The chairperson at meetings

6.1 The mayor, or at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.

**Note: Clause 6.1 reflects section 369(1) of the Act.**

6.2 If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

**Note: Clause 6.2 reflects section 369(2) of the Act.**

Election of the chairperson in the absence of the mayor and deputy mayor

6.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

6.4 The election of a chairperson must be conducted:

(a) by the General Manager or, in their absence, an employee of the council designated by the General Manager to conduct the election, or
(b) by the person who called the meeting or a person acting on their behalf if neither the General Manager nor a designated employee is present at the meeting, or if there is no General Manager or designated employee.

6.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.

6.6 For the purposes of clause 6.5, the person conducting the election must:

(a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
(b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.

6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

Chairperson to have precedence

6.9 When the chairperson rises or speaks during a meeting of the council:

(a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
(b) every councillor present must be silent to enable the chairperson to be heard without interruption.

Liability of Councillors, employees and other persons

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

## 7 MODES OF ADDRESS

7.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.

7.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.

7.3 A councillor is to be addressed as 'Councillor [surname]'.

7.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].

## 8 ORDER OF BUSINESS FOR ORDINARY COUNCIL MEETINGS

8.1 The general order of business for an ordinary meeting of the council shall be:

Opening meeting
Statement of Recognition Prayer
Leave of Absence
Apologies and applications for a leave of absence
Confirmation of minutes
Disclosures of interests
Addressing Council
Mayoral minute(s)
Notices of motions/Questions with notice Reports of committees
Reports to council Urgent Business
Confidential matters/Committee of the Whole Conclusion of the meeting

8.2 The order of business as fixed under clause 8.1 may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

8.3 Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 8.2 may speak to the motion before it is put.

## 9 CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS

Business that can be dealt with at a council meeting

9.1 The council must not consider business at a meeting of the council:

(a) unless a councillor has given notice of the business, as required by clause 3.9, and
(b) unless notice of the business has been sent to the councillors in accordance with clause 3.7 in the case of an ordinary meeting or clause 3.9 in the case of an extraordinary meeting called in an emergency.

9.2 Clause 9.1 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, or
(c) subject to clause 9.9, is a matter or topic put to the meeting by way of a mayoral minute, or
(d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.

9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:

(a) a motion is passed to have the business considered at the meeting, and
(b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.

9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

Mayoral minutes

9.6 Subject to clause 9.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, 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.

9.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.

9.8 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.

9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.

9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the General Manager on the availability of funds

for implementing the recommendation if adopted.

Staff reports

9.11 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

Reports of committees of council

9.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.

9.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

Questions

9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.9 and 3.13.

9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.

9.16 A councillor may, through the General Manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the General Manager at the direction of the General Manager.

9.17 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 information. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.

9.18 Councillors must put questions directly, succinctly, respectfully and without argument.

9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

## 10 RULES OF DEBATE

Motions to be seconded

10.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

Notices of motion

10.2 A councillor who has submitted a notice of motion under clause 3.9 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.

10.3 If a councillor who has submitted a notice of motion under clause 3.9 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.

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

(a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
(b) the chairperson may defer consideration of the motion until the next meeting of the council.

Chairperson's duties with respect to motions

10.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.

10.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.

10.7 Before ruling out of order a motion or an amendment to a motion under clause 10.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.

10.8 Any motion, amendment, or other matter that the chairperson has ruled out of order is taken to have been lost.

Motions requiring the expenditure of funds

10.9 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report from the General Manager on the availability of funds for implementing the motion if adopted.

Amendments to motions

10.10 An amendment to a motion must be moved and seconded before it can be debated.

10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.

10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.

10.13 If an amendment has been lost, a further amendment can be moved to the motion

to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.

10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.

10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.

10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

Foreshadowed motions

10.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.

10.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.

10.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

Limitations on the number and duration of speeches

10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.

10.21 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.

10.22 A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time.

10.23 Despite clause 10.22, 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 five (5) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the

misrepresentation or misunderstanding.

10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.

10.25 Despite clauses 10.20 and 10.21, 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 two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.

10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.

10.27 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 their right of reply under clause 10.20.

10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.

10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.

10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

Order of Dealing with Motions and Amendments

10.31 Amendment
Original Motion Foreshadowed
Motion

If an amendment is accepted by the mover and seconder of the original motion, the amendment can become a part of the Original Motion. The general right of reply remains with the Councillor who moved the original motion.

## 11 VOTING

Voting entitlements of councillors

11.1 Each councillor is entitled to one (1) vote.

**Note: Clause 11.1 reflects section 370(1) of the Act.**

11.2 The person presiding at a meeting of the council has, in the event of an equality of

votes, a second or casting vote.

**Note: Clause 11.2 reflects section 370(2) of the Act.**

11.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

Voting at council meetings

11.4 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

11.5 If a councillor who has voted against a motion put at a council meeting so requests, the General Manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.

11.6 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 (2) councillors rise and call for a division.

11.7 When a division on a motion is called, 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 recorded in the council's minutes for the meeting.

11.8 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.4 of this code.

11.9 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

Voting on planning decisions

11.10 The General Manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.

11.11 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.

11.12 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.

11.13 Clauses 11.10–11.12 apply also to meetings that are closed to the public.

**Note: Clauses 11.10–11.13 reflect section 375A of the Act.**

## 12 COMMITTEE OF THE WHOLE

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

**Note: Clause 12.1 reflects section 373 of the Act.**

12.2 All the provisions of this code relating to meetings of the council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provisions limiting the number and duration of speeches.

**Note: Clauses 10.20–10.30 limit the number and duration of speeches.**

12.3 The General Manager or, in the absence of the General Manager, an employee of the council designated by the General Manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full, but any recommendations of the committee must be reported.

12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

## 13 DEALING WITH ITEMS BY EXCEPTION

13.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.

13.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.

13.3 The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.

13.4 Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.2.

13.5 A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.

13.6 Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.

13.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.

## 14 CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC

Grounds on which meetings can be closed to the public

14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:

(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, or
    (ii) confer a commercial advantage on a competitor of the council, or
    (iii) reveal a trade secret,
(e) information that would, if disclosed, prejudice the maintenance of law,
(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,
(i) alleged contraventions of the council's code of conduct.

**Note: Clause 14.1 reflects section 10A(1) and (2) of the Act.**

14.2 The council or a committee of the council 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.

**Note: Clause 14.2 reflects section 10A(3) of the Act.**

Matters to be considered when closing meetings to the public

14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:

(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.

**Note: Clause 14.3 reflects section 10B(1) of the Act.**

14.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 14.1(g) unless the advice concerns legal matters that:

(a) are substantial issues relating to a matter in which the council or committee is involved, and
(b) are clearly identified in the advice, and
(c) are fully discussed in that advice.

**Note: Clause 14.4 reflects section 10B(2) of the Act.**

14.5 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 14.2), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 14.1.

**Note: Clause 14.5 reflects section 10B(3) of the Act.**

14.6 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.

**Note: Clause 14.6 reflects section 10B(4) of the Act.**

14.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the Departmental Chief Executive of the Office of Local Government.

**Note: Clause 14.7 reflects section 10B(5) of the Act.**

<u>Notice of likelihood of closure not required in urgent cases</u>

14.8 Part of a meeting of the council, or of a committee of the council, 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 under clause 3.20 as a matter that is likely to be considered when the meeting is closed, but only if:

(a) it becomes apparent during the discussion of a particular matter that the matter

is a matter referred to in clause 14.1, and

(b) the council or committee, after considering any representations made under clause 14.9, 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.

Note: Clause 14.8 reflects section 10C of the Act.

Representations by members of the public

14.9 The council, or a committee of the 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.

Note: Clause 14.9 reflects section 10A(4) of the Act.

14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.

14.11 Where the matter has been identified in the agenda of the meeting under clause 3.20 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form (available on the council's website or by request). Applications must be received by midday on the day of the meeting at which the matter is to be considered.

14.12 The General Manager (or their delegate) may refuse an application made under clause 14.11. The General Manager or their delegate must give reasons in writing for a decision to refuse an application.

14.13 No more than **two** speakers are to be permitted to make representations under clause 14.9.

14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the General Manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the General Manager or their delegate is to determine who will make representations to the council.

14.15 The General Manager (or their delegate) is to determine the order of speakers.

14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.20 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than **two** speakers to make representations in such order as determined by the

chairperson.

14.17 Each speaker will be allowed **three** minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

Expulsion of non-councillors from meetings closed to the public

14.18 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.

14.19 If any such person, after being notified of a resolution or direction expelling them 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 for the remainder of the meeting.

Obligations of councillors attending meetings by audio-visual link

14.20 Councillors attending a meeting by audio-visual link must ensure that no other person is within sight or hearing of the meeting at any time that the meeting is closed to the public under section 10A of the Act.

Information to be disclosed in resolutions closing meetings to the public

14.21 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. The grounds must specify the following:

(a) the relevant provision of section 10A(2) of the Act,
(b) the matter that is to be discussed during the closed part of the meeting,
(c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

**Note: Clause 14.21 reflects section 10D of the Act.**

Resolutions passed at closed meetings to be made public

14.22 If the 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 the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.

14.23 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the chairperson under clause 14.22 during a part of the meeting that is webcast.

## 15 KEEPING ORDER AT MEETINGS

Points of order

15.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.

15.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.

15.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

Questions of order

15.4 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.

15.5 A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.

15.6 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.

15.7 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

Motions of dissent

15.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.

15.9 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 rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.

15.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

Acts of disorder

15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:

(a) contravenes the Act, the regulation or this code, or
(b) assaults or threatens to assault another councillor or person present at the meeting, or
(c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or
(d) insults, makes unfavourable personal remarks about, or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
(e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

**Note: Clause 15.11 reflects section 182 of the Regulation.**

15.12 The chairperson may require a councillor:

(a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a), (b), or (e) or
(b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or
(c) to retract and apologise without reservation for any statement that constitutes an act of disorder referred to in clauses 15.11(d) and (e).

How disorder at a meeting may be dealt with

15.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (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 clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

Expulsion from meetings

15.14 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person, including any councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act.

15.15 Clause 15.14 does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.

15.16 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a

meeting of the council for having failed to comply with a requirement under clause 15.12. 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.

Note: Clause 15.16 reflects section 233(2) of the Regulation.

15.17 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.

15.18 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.

15.19 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, 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 of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

How disorder by councillors attending meetings by audio-visual link may be dealt with

15.20 Where a councillor is attending a meeting by audio-visual link, the chairperson or a person authorised by the chairperson may mute the councillor's audio link to the meeting for the purposes of enforcing compliance with this code.

15.21 If a councillor attending a meeting by audio-visual link is expelled from a meeting for an act of disorder, the chairperson of the meeting or a person authorised by the chairperson, may terminate the councillor's audio-visual link to the meeting.

Use of mobile phones and the unauthorised recording of meetings

15.22 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.

15.23 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.

15.24 Without limiting clause 15.17, a contravention of clause 15.23 or an attempt to contravene that clause, constitutes disorderly conduct for the purposes of clause 15.17. Any person who contravenes or attempts to contravene clause 15.23, may be expelled from the meeting as provided for under section 10(2) of the Act.

15.25 If any such person, after being notified of a resolution or direction expelling them 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 for the remainder of the meeting.

## 16 CONFLICTS OF INTEREST

16.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council and committees of the council in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made.

16.2 Councillors attending a meeting by audio-visual link must declare and manage any conflicts of interest they may have in matters being considered at the meeting in accordance with the council's code of conduct. Where a councillor has declared a pecuniary or significant non-pecuniary conflict of interest in a matter being discussed at the meeting, the councillor's audio-visual link to the meeting must be suspended or terminated and the councillor must not be in sight or hearing of the meeting at any time during which the matter is being considered or discussed by the council or committee, or at any time during which the council or committee is voting on the matter.

## 17 DECISIONS OF THE COUNCIL

Council decisions

17.1 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.

**Note: Clause 17.1 reflects section 371 of the Act in the case of councils and section 400T(8) in the case of joint organisations.**

17.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

Rescinding or altering council decisions

17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.9.

**Note: Clause 17.3 reflects section 372(1) of the Act.**

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

**Note: Clause 17.4 reflects section 372(2) of the Act.**

17.5 If a motion has been lost, a motion having the same effect must not be considered

unless notice of it has been duly given in accordance with clause 3.9.

Note: Clause 17.5 reflects section 372(3) of the Act.

17.6 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 lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

NOTE: CLAUSE 17.6 REFLECTS SECTION 372(4) OF THE ACT.

17.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

Note: Clause 17.7 reflects section 372(5) of the Act.

17.8 The provisions of clauses 17.5–17.7 concerning lost motions do not apply to motions of adjournment.

Note: Clause 17.8 reflects section 372(7) of the Act.

17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.10 with the consent of all signatories to the notice of motion.

17.10 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.

Note: Clause 17.10 reflects section 372(6) of the Act.

17.11 Subject to clause 17.6, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:

(a) a notice of motion signed by three councillors is submitted to the chairperson, and
(b) a motion to have the motion considered at the meeting is passed, and
(c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

17.12 A motion moved under clause 17.11(b) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.11(b) can speak to the motion before it is put.

17.13 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.11(c).

Recommitting resolutions to correct an error

17.14 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:

(a) to correct any error, ambiguity or imprecision in the council's resolution, or
(b) to confirm the voting on the resolution.

17.15 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.14(a), the councillor is to propose alternative wording for the resolution.

17.16 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.14(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.

17.17 A motion moved under clause 17.14 can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.14 can speak to the motion before it is put.

17.18 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.14.

17.19 A motion moved under clause 17.14 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

## 18 AFTER THE MEETING

Minutes of meetings

18.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.

**Note: Clause 18.1 reflects section 375(1) of the Act.**

18.2 At a minimum, the General Manager must ensure that the following matters are recorded in the council's minutes:

(a) the names of councillors attending a council meeting and whether they attended the meeting in person or by audio-visual link,
(b) details of each motion moved at a council meeting and of any amendments moved to it,
(c) the names of the mover and seconder of the motion or amendment,
(d) whether the motion or amendment was passed or lost, and
(e) such other matters specifically required under this code.

18.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.

**Note: Clause 18.3 reflects section 375(2) of the Act.**

18.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

18.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.

**Note: Clause 18.5 reflects section 375(2) of the Act.**

18.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

18.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

Access to correspondence and reports laid on the table at, or submitted to, a meeting

18.8 The council and committees of the council 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.

**Note: Clause 18.8 reflects section 11(1) of the Act.**

18.9 Clause 18.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

**Note: Clause 18.9 reflects section 11(2) of the Act.**

18.10 Clause 18.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

**Note: Clause 18.10 reflects section 11(3) of the Act.**

18.11 Correspondence or reports to which clauses 18.9 and 18.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

Implementation of decisions of the council

18.12 The General Manager is to implement, without undue delay, lawful decisions of the council.

Note: Clause 18.12 reflects section 335(b) of the Act.

## 19 COUNCIL COMMITTEES

Application of this Part

19.1 This Part only applies to committees of the council whose members are all councillors.

Council committees whose members are all councillors

19.2 The council may, by resolution, establish such committees as it considers necessary.

19.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.

19.4 The quorum for a meeting of a committee of the council 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.

Functions of committees

19.5 The council must specify the functions of each of its committees when the committee is established but may from time to time amend those functions.

Notice of committee meetings

19.6 The General Manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:

(a) the time, date and place of the meeting, and

(b) the business proposed to be considered at the meeting.

19.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

Attendance at committee meetings

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

(a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or

(b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.

19.9 Clause 19.8 does not apply if all of the members of the council are members of the committee.

Non-members entitled to attend committee meetings

19.10 A councillor who is not a member of a committee of the council is entitled to attend, and to speak at a meeting of the committee. However, the councillor is not entitled:

(a) to give notice of business for inclusion in the agenda for the meeting, or
(b) to move or second a motion at the meeting, or
(c) to vote at the meeting.

Chairperson and deputy chairperson of council committees

19.11 The chairperson of each committee of the council must be:
(a) the mayor, or
(b) if the mayor does not wish to be the chairperson of a committee, a member of the committee elected by the council, or
(c) if the council does not elect such a member, a member of the committee elected by the committee.

19.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.

19.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.

19.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

Procedure in committee meetings

19.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.

19.16 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 unless the council or the committee determines otherwise in accordance with clause 19.15.

19.17 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

Closure of committee meetings to the public

19.18 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.

19.19 If a committee of the 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 make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.

19.20 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 19.19 during a part of the meeting that is webcast.

Disorder in committee meetings

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

Minutes of council committee meetings

19.22 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:

(a) the names of councillors attending a meeting and whether they attended the meeting in person or by audio-visual link,
(b) details of each motion moved at a meeting and of any amendments moved to it,
(c) the names of the mover and seconder of the motion or amendment,
(d) whether the motion or amendment was passed or lost, and
(e) such other matters specifically required under this code.

19.23 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.

19.24 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

19.25 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.

19.26 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

19.27 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

## 20 IRREGULARITES

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

(a) a vacancy in a civic office, or

(b) a failure to give notice of the meeting to any councillor or committee member, or

(c) any defect in the election or appointment of a councillor or committee member, or

(d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or

(e) a failure to comply with this code.

Note: Clause 20.1 reflects section 374 of the Act.

## 21 DEFINITIONS

| | |
|---|---|
| the Act | means the *Local Government Act 1993* |
| act of disorder | means an act of disorder as defined in clause 15.11 of this code |
| amendment | in relation to an original motion, means a motion moving an amendment to that motion |
| audio recorder | any device capable of recording speech |
| audio-visual link | means a facility that enables audio and visual communication between persons at different places |
| business day | means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales |
| chairperson | in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and<br>in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 19.11 of this code |
| this code | means the council's adopted code of meeting practice |
| Committee of the council | means a committee established by the council in accordance with clause 19.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1 |
| council official | has the same meaning it has in the Model Code of Conduct for Local Councils in NSW |
| day | means calendar day |
| division | means a request by two councillors under clause 11.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion |
| foreshadowed amendment | means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment |
| foreshadowed motion | means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion |
| open voting | means voting on the voices or by a show of hands or by a visible electronic voting system or similar means |

| | |
|---|---|
| planning decision | means a decision made in the exercise of a function of a council under the *Environmental Planning and Assessment Act 1979* including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act |
| performance improvement order | means an order issued under section 438A of the Act |
| quorum | means the minimum number of councillors or committee members necessary to conduct a meeting |
| the Regulation | means the *Local Government (General) Regulation 2021* |
| webcast | a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time |
| year | means the period beginning 1 July and ending the following 30 June |

Document Control

| Policy History | Approving Authority | Date |
|---|---|---|
| Adopted the Model Code of Meeting Practice 2021 | Council | 27 June 2022 |
| Changes made to clauses 5.18 - 5.21 of the Code of Meeting Practice. | Council | 12 August 2024 |
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