



# Murrumbidgee COUNCIL

## CODE OF MEETING PRACTICE

Fully revised September 2012 to comply with LG Act 1993 & Regulation 2005  
Revised 25 May 2016

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## PART 1- PRELIMINARY

### 1. Citation

This Code may be cited as the "Murrumbidgee Council Code of Meeting Practice"

### 2. Definitions

(i) In this Code:

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

(b) **chairperson**,

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

(ii) in relation to a meeting of a committee - means the person presiding at the meeting as provided by clause 51 of this Code;

(c) **committee**, means a committee appointed or elected by the Council in accordance with clause 44(l) or the Council when it has resolved itself into a committee of the whole;

**Point of order** means where a person formally draws the attention of the Chairperson

of a meeting to an alleged irregularity in the proceedings of the meeting;

#### **Note:**

**A point of order takes precedence over all other business. When a point of order is taken, it must include the incident objected to and the reasons for the objection. The Chairperson must rule on the point taken by either having the point upheld (ie allowed) or overruled (ie disallowed).**

**Points of Order include, for example, the time limit has been exceeded, a quorum is not present, the speaker's remarks are irrelevant or contrary to Council's Code of Conduct, alleged breaches of the Code of Meeting Practice, alleged disregard for a previous resolution.**

**Contradictions, personal explanations and statements of fact or opinion dealing with the item or subject are not points of order.**

(d) **record** means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a Councillor or an employee of the Council and, in particular, includes the minutes of meetings of the Council or of a committee of the Council;

(e) **relative**, in relation to a person, means any of the following:

- (i) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;
  - (ii) the spouse or the de facto partner of the person or of a person referred to in paragraph (e) (i).
- (f) **the Act** means the Local Government Act 1993;
- (g) **the Code** means the Murrumbidgee Council Code of Meeting Practice; and
- (h) **the Regulation** means the Local Government (General) Regulation 2005.
- (ii) Except as otherwise provided, expressions used in this Code which are defined in the dictionary at the end of the Act have the meanings set out in the dictionary.

**(LGA – S) means reference to a Section of the Local Government Act 1993**

**(Reg – Cl) means reference to a Clause of the Local Government (General) Regulation 2005**

### **3. Act and Regulation**

- (i) This Code is made pursuant to section 360(2) of the Act.
- (ii) It incorporates relevant provisions of the Regulation and the Act.
- (iii) In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) shall prevail to the extent of the inconsistency.

### **4. Notes to text**

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

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

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

### **5. Frequency of Meetings of the Council**

- (i) The Council is required to meet at least 10 times each year, each time in a different month. **(LGA – S365)**
- (ii) The Council has resolved that Ordinary Meetings of the Council shall be held on the fourth Thursday of every month commencing at 10.00 am
- (iii) Ordinary Meetings of the Council are held in the three service centres within the Council Local Government area, on a rotation basis
- (iv) The Council may, by resolution, vary the time, date and place of Ordinary Meetings should extenuating circumstances exist which would prevent the Ordinary Meetings of the Council being held in accordance with clause 5 (ii).

### **6. Call of the Council**

Any Councillor who is absent without prior leave of Council from 3 consecutive ordinary meetings of the Council shall be disqualified from holding civic office. **(LGA –S234)**

### **7. Extraordinary Meetings**

- (i) The Mayor may call Extraordinary Meetings of the Council.
- (ii) If the Mayor receives a request in writing signed by at least 2 Councillors, the Mayor must call an Extraordinary Meeting of the Council to be held as soon as practicable but in any event within 14 working days after the receipt of the request. **(LGA –S366)**
- (iii) if the Mayor fails, within 3 working days of receipt of a request pursuant to subsection (ii), to give a direction to the General Manager for the sending of Notices to Councillors for an Extraordinary Meeting to be held within the period specified in subsection (ii), the General Manager must send a notice to each Councillor specifying that the Meeting will be held within fourteen (14) days following the date of receipt of the request.
- (iv) For the purpose of subsections (ii) and (iii), a working day is a day that is not a Saturday, Sunday or public holiday.
- (v) Any request submitted in accordance with this clause must clearly state the business proposed to be transacted at the meeting.

### **8. Notice of meetings**

- (i) The General Manager of the Council must send to each Councillor, at least 3 days before each meeting of the Council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting. **(LGA – S367 (1))**

- (ii) Notice of less than 3 days may be given of an Extraordinary Meeting called in an emergency, but in no case shall notice of less than one day be given. **(LGA – S367 (2))**
- (iii) A notice of a meeting of a council or of a committee must be published in a newspaper circulating in the area before the meeting takes place. **(Reg – CI232(2))**
- (iv) The notice must specify the time and place of the meeting. **(Reg – CI232(3))**
- (v) Notice of more than one meeting may be given in the same notice. **(Reg – CI232(4))**
- (vi) This clause does not apply to an extraordinary meeting of a council or committee. **(Reg – CI232(5))**
- (vii) Subclauses (i) and (ii) do not apply to the consideration of business at a meeting if the business:
  - a) is already before, or directly relates to a matter that is already before, the Council; or
  - b) is the election of a chairperson to preside at the meeting as provided by clause 12 (iii); or
  - c) is a matter or topic put to the meeting by the chairperson in accordance with clause 16; or
  - d) is a motion for the adoption of recommendations of a committee of the Council.
- (viii) Despite subclauses (i) and (ii), business may be transacted at a meeting of the Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
  - (a) a motion is passed to have the business transacted at the meeting; and
  - (b) either:
    - (ix) All the Councillors (disregarding any casual vacancies) are present at the meeting; **or**
    - (x) the business proposed to be brought forward is ruled by the Chairperson to be of sufficient urgency to warrant consideration at that meeting.
      - (a) Such a motion can be moved without notice.
- (xi) Despite clause 28 relating to the limitation as to the number of speeches, only the mover referred to in subclause (iv) can speak to the motion before it is put.

## 9. Quorum

The quorum for a meeting of the Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office. **(LGA – S368)**

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

- (i) A meeting of the Council must be adjourned if a quorum is not present:
  - a) within half an hour after the time designated for the holding of the meeting; **or**
  - b) at any time during the meeting. **(Reg – CI233(1))**
- (ii) In either case, the meeting must be adjourned to a time, date and place fixed:
  - a) by the chairperson; or
  - b) in his or her absence - by the majority of the Councillors present; or
  - c) failing that, by the General Manager. **(Reg – CI233(2))**
- (iii) The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the Councillors present. **(Reg – CI233(3))**

## **11. Presence at Council meetings**

A Councillor cannot participate in a meeting of the Council unless personally present at the meeting. **(Reg CI 235)**



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

### **12. Chairperson of Council meetings**

- (i) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor presides at meetings of the Council. **(LGA – S369(1))**
- (ii) If the Mayor and the Deputy Mayor are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council. **(LGA – S369(2))**
- (iii) 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. **(Reg – CI 236 (1))**
- (iv) The election referred to in 12 (iii) above must be conducted:
  - a. by the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election; or
  - b. if neither of them is present at the meeting or there is no General Manager or designated employee - by the person who called the meeting or a person acting on his or her behalf. **(Reg – CI 236 (2))**
- (v) If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot drawn by the General Manager or his nominee. **(Reg – CI 236 (3))**
- (vi) For the purpose of subclause (v), the person conducting the election must:
  - a. arrange for the names of the candidates who have equal numbers of votes to be written on similar slips; and
  - b. then fold the slips so as to prevent the names being seen, mix the slips and draw one of the slips at random. **(Reg – CI 236 (4))**
- (vii) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson. **(Reg – CI 236 (5))**

### **13. Chairperson to have precedence**

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

- a. any Councillor then speaking or seeking to speak must, if standing,
  - i. immediately resume his or her seat; and
- b. every Councillor present must be silent to enable the Chairperson to be heard without interruption. **(Reg – CI 237)**

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

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

#### **15. Confirmation of Minutes**

- (i) The Council must ensure that full and accurate minutes are kept of proceedings of the Council. **(LGA – S375(1))**
- (ii) The correctness of the minutes of every preceding meeting, including extraordinary meeting, not previously confirmed must be dealt with at every ordinary meeting of the Council, in order that such minutes may be confirmed
- (iii) A motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.
- (iv) Minutes may be confirmed at an extraordinary meeting of the Council.
- (v) The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting. **(LGA – S375(2))**
- (vi) The minutes of Council and Committee meetings must show the details of each motion and amendment moved at the meeting, the names of the mover and seconder of the motion or amendment and whether the motion or amendment is passed or lost.

#### **16. Order of Business**

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

## **17. Business Papers for Council Meetings**

- (i) The General Manager must ensure that the business paper for a meeting of the Council states:
  - a. all matters to be dealt with arising out of the proceedings of former meetings of the Council; and
  - b. if the Mayor (or the Deputy Mayor if acting for the Mayor) is the chairperson – any matter or topic the chairperson proposes, at the time when the business paper is prepared, to put to the meeting; and
  - c. any business of which due notice has been given. **(Reg – CI240 (1))**
- (ii) The General Manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report (without giving details of the item of business) any such exclusion to the next meeting of the Council. **(Reg – CI 240 (2))**
- (iii) The General Manager must cause the business paper for a meeting of the Council to be prepared as soon as practicable before the meeting. **(Reg – CI240 (3))**
- (iv) The General Manager must ensure that the details of any item of business to which Clause 65(3) applies are included in a business paper for the meeting concerned. **Reg – CI 240 (4))**
- (v) Nothing in this clause limits the powers of the chairperson under clause 20. **(Reg – CI240 (5))**

## **18. Giving notice of business**

- (i) The Council must not transact business at a meeting of the Council:
  - a. unless a Councillor has given notice of the business in writing by noon of the Thursday immediately preceding the meeting; and
  - b. unless notice of business has been sent to the Councillors at least 3 days before the meeting, or, in the event of an extraordinary meeting called in an emergency, at least one day. **(Reg – CI 241(1))**
- (ii) A notice under this clause and the agenda for, and the business papers relating to the meeting may be given to a Councillor in electronic form but only if all Councillors have facilities to access the notice, agenda and business papers in that form. **(LGA – s367(3))**
- (iii) Subclause (i) does not apply to the consideration of business at a meeting if the business:

- a. is already before, or directly relates to a matter that is already before the Council; or **(Reg – CI 241 (2)(a))**
  - b. is the election of a chairperson to preside at the meeting as provided by clause 12 (iii); or **(Reg – CI 241(2)(b))**
  - c. is a matter or topic put to the meeting by the chairperson in accordance with clause 20; or **(Reg – CI 241 (2)(c))**
  - d. is a motion for the adoption of recommendations of a committee of the Council **(Regulation – CI 241(2)(d))**.
- (iv) Despite subclause (i), business may be transacted at a meeting of the Council even though due notice of the business has not been given to Councillors. However, this can happen only if-
- a. a motion is passed to have the business transacted at the meeting; and
  - b. all the Councillors (disregarding any casual vacancies) are present at the meeting or the business proposed to be brought forward is ruled by the chairperson to be of sufficient urgency to warrant consideration of the meeting.

Such a motion can be moved without notice. **(Reg – CI 241 (3))**

- (v) Despite clause 30, only the mover of a motion referred to in subclause (iv) can speak to the motion before it is put. **(Reg – CI 241 (4))**

## **19. Business paper for Extraordinary Meeting**

- (i) The General Manager must ensure that the Business Paper for an Extraordinary Meeting of the Council deals only with the matters stated in the notice of the meeting. **(Reg – CI 242 (1))**
- (ii) Despite subclause (i), business may be transacted at an Extraordinary Meeting of the Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
  - a) a motion is passed to have the business transacted at the meeting; and
  - b) all the Councillors (disregarding any casual vacancies) are present at the meeting; or the business approved to be brought forward is ruled by the chairperson to be of sufficient urgency to warrant consideration at that meeting.

Such a motion can be moved without notice but only after the business notified in the business paper for the meeting has been disposed of. **(Reg – CI 242 (2))**

- (iii) Despite clause 30 relating to limitations as to number of speeches, only the mover of a motion referred to in subclause (ii) can speak to the motion before it is put. **(Reg – CI 242 (3))**

## **20. Official Minutes**

- (i) If the Mayor (or the Deputy Mayor, if acting for the Mayor) is the chairperson at a meeting of a Council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge. **(Reg – CI 243 (1))**
- (ii) Such a minute, when put to the meeting, takes precedence over all business on the Council's business paper for the meeting. The chairperson (but only if the chairperson is the Mayor, or the Deputy Mayor, if acting for the Mayor) may move the adoption of the minute without the motion being seconded. **(Reg – CI 243 (2))**
- (iii) A recommendation made in a minute of the chairperson (being the Mayor, or Deputy Mayor, if acting for the Mayor) or in a report made by a Council employee is, in so far as adopted by the Council, a resolution of the Council. **(Reg – CI 243 (3))**

## **21. Matters to be included in minutes of council meeting**

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

- a) Details of each motion moved at a Council meeting, and of any amendments moved to it,
- b) The names of the mover and seconder of the motion or amendment,
- c) Whether the motion or amendment is passed or lost. **(Reg – CI 254)**
- d) For motions involving Development Applications all Councillors for and all Councillors against the proposal **(LGA – S375A)**

## **22. Report of a Department of Local Government representative to be tabled at Council meeting**

When a report of a NSW Department of Local Government representative has been presented to a meeting of the Council in accordance with section 433 of the Act, the Council must ensure that the report:

- a) is laid on the table at that meeting; and
- b) is subsequently available for the information of Councillors and members of the public at all reasonable times. **(Reg – CI 244)**

## **23. Notice of motion - absence of mover**

In the absence of a Councillor who has placed a notice of motion on the business paper for a meeting of the Council

- a) any other Councillor may move the motion at the meeting, or
- b) the chairperson may defer the motion until the next meeting of the Council at which the motion can be considered. **(Reg – CI 245)**

## **24. Motions to be seconded**

- (i) A motion or an amendment cannot be debated unless or until it has been seconded. This Clause is subject to Clauses 20(ii) and 30(v). **(Reg – CI 246)**
- (ii) The seconder of a motion or of an amendment may reserve the right to speak later in the debate, subject to Clause 30(5).
- (iii) It is permissible to debate the motion and an amendment concurrently. How subsequent amendments may be moved

## **25. How subsequent amendments may be moved**

- (i) If an amendment has been accepted or rejected, a further amendment can be moved to the motion in its original or amended form (as the case may be), and so on, but no more than one motion and one proposed amendment can be before the Council at any one time. **(Reg – CI 247)**
- (ii) During the debate on an amendment, if a further amendment is foreshadowed, the subject and the detail of the foreshadowed amendment shall not be indicated, and any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.
- (iii) An amendment must relate solely to the subject matter of the motion and not to something else. The Chairperson shall reject an amendment if the proposed amendment:
  - Is a direct negative, or contradiction, of the motion or has that effect; or
  - Does not relate to the motion

## **26. Motions of dissent**

- (i) A Councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent. **(Reg – CI 248(1))**
- (ii) If a motion of dissent is carried, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the business paper and proceed with it in due course. **(Reg – CI 248(2))**
- (iii) Despite clause 28, 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. **(Reg – CI 248(3))**

## **27. Correspondence**

- (i) Correspondence with the Council shall be addressed to the Mayor or General Manager.
- (ii) Letters shall not be presented or read by members at meetings of the Council.

- (iii) The Council may decide whether or not correspondence shall be read – provided that the report of the Auditor or of a Local Government Inspector, whether read or not, shall be laid on the table and be made available at any reasonable time for the information of members.
- (iv) Outward correspondence shall be signed by:
  - a) The Mayor
  - b) The General Manager; or
  - c) Any employee of the Council authorised by the General Manager.

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

- (i) A Councillor:
  - (a) may, through the chairperson, put a question to another Councillor; and
  - (b) may, through the chairperson and the General Manager, put a question to a council employee. **(Reg – CI 249(1))**
- (ii) However, a Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents. **(Reg – CI 249(2))**
- (iii) Any such question shall be put directly, succinctly, and without argument. **(Reg – CI 249(3))**
- (iv) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this clause. **(Reg – CI 249(4))**
- (v) Nothing in this clause affects questions being asked, with the leave of the Chairperson, relevant to any matter under discussion at a meeting.

## **29. Mode of address**

Councillors shall at all times address other Councillors by their official designation, for example, "Mr Mayor" or "Councillor Brown", as the case may be.

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

- (i) A Councillor who, during a debate at a meeting of the Council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment. **(Reg – CI 250(1))**

- (ii) A Councillor, other than the mover of an original motion has the right to speak once on the motion and once on each amendment to the motion. **(Reg – CI 250(2))**
- (iii) A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion of an amendment, and for longer than 5 minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding. **(Reg – CI 250(3))**
- (iv) Despite subclauses (i) and (ii), if at least 2 Councillors have spoken in favour of a motion or an amendment and at least 2 Councillors have spoken against the motion or amendment, any Councillor may move that the question be now put. A Councillor may also move that the question be now put if the mover of a motion or amendment has spoken in favour of the motion or amendment and no Councillor indicates a wish to speak. **(Reg – CI 250(4))**
- (v) The chairperson must immediately put to the vote a motion that the question be now put without the motion being seconded and without debate. **(Reg – CI 250(5))**
- (vi) If a motion that the question be now put is passed, the chairperson must, after the mover of the motion has exercised his or her right of reply under subclause (i), immediately put the question to the vote without further debate. However, if the question is an amendment, the chairperson must immediately put the question to the vote without further debate and the mover of the motion has no right of reply under that subclause. **(Reg – CI 250(6))**
- (vii) If a motion that the question be now put is rejected, the chairperson must resume the debate on the original motion or amendment. **(Reg – CI 250(7))**

### **31. Questions and Statements**

- (i) During the time provided at the Council meeting, every Councillor has the right to ask questions or make statements on any issue.
- (ii) During Questions and Statements, Councillors must not speak for longer than 5 minutes, except if an extension of time is granted as provided in Clause 30.

### **32. Motions put with no or limited debate**

- (i) When a motion has been moved and seconded, the Chairperson shall ask if the motion is to be opposed. If no opposition is indicated, then the Chairperson may put the motion, provided no Councillor exercises his or her right to speak under Clause 31 (ii).
- (ii) If a motion is opposed, then the Mover shall speak first. Other speakers shall follow, and shall alternate for and against the motion. When that cycle of debate cannot proceed, the Chairperson may put the motion, provided no Councillor exercises his or her right to speak under Clause 31 (ii).



### **33. Voting at Council meetings**

- (i) Each Councillor is entitled to one vote. **(LGA – S370(1))**
- (ii) However, the chairperson has, in the event of an equality of votes, a second or casting vote. **(LGA – S370(2))**
- (iii) A Councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion. This subclause does not apply to a Councillor who does not vote because he or she has a pecuniary interest in the subject matter of the motion. **(LGA – C251(1))**
- (iv) If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes. **(LGA – C251(2))**
- (v) The decision of the chairperson as to the result of a vote is final, unless: **(LGA – C251 (3))**
  - a. in the case where a vote has been declared on the voices, a Councillor immediately requests a show of hands; or
  - b. the decision is immediately challenged and not fewer than 2 Councillors rise and demand a division. **(LGA – C251 (3))**
- (vi) When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes. **(LGA – C251 (4))**
- (vii) Voting at a Council meetings, including voting in an election at such a meeting is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in an election by Councillors for Mayor and Deputy Mayor is to be by secret ballot. **(LGA – C251 (5))**

#### **Note:**

**The Local Government (General) Regulation 2005 provides that a council is to resolve whether an election by the Councillors for Mayor or Deputy Mayor is to be by preferential ballot, ordinary ballot or open voting (Clause 394 and Clause 3 of schedule 7). Clause 3 of schedule 7 also makes it clear that “ballot” has its normal meaning of secret ballot.**

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

- (i) A representation at a Council meeting by a member of the public as to whether a part of the meeting should be closed to the public, can only be made for a period of one (1) minute, (ie – each member of the public will be limited to speaking for no more than one (1) minute each) immediately after the motion to close part of the meeting is moved and seconded.

- (ii) The Mayor, or the Chairperson of the Council meeting, may allow only such number of members of the public to make representations on the proposed closure as is sufficient, in the opinion of the Mayor or Chairperson, to enable the Council to gauge the views of the members of the public present.
- (iii) The process that will be followed for public representations will be:

Step 1 – Mayor calls for a Motion to go into Confidential Closed Council, and that motion is seconded;

Step 2 – Mayor then asks of General Manager if any written representations have been received, or then, if any member present in the public gallery wishes to make a verbal representation. Each verbal representation will be limited to one (1) minute per person;

Step 3 – After the verbal representations (if any) the Mayor puts the Motion (to go into Confidential Closed Council) to the meeting, and if carried, the Confidential Closed Council will firstly discuss the matter(s) for which verbal representations have been made (to determine whether or not the subject matter be discussed in Open Council or Confidential Closed Council).

Step 4 – When that matter has been decided, the persons who made the verbal representations should be informed as to whether the matter will be discussed in open or in closed Council.

Step 5 – When the subject matter is decided at Step 3, there will be two ways that the matter can be dealt with – either in the Confidential Closed session of Council (despite the representations), or Council decided to deal with the matter in Open Council. Depending in the decision of Council, these matters will be dealt with as follows:

- a) If decided to be dealt with in Closed Council – continue with the business in the ordinary course (ie the agenda of the Confidential Closed Council stays)
- b) If decided to be dealt with in Open Council and the matter which has been the subject of representations is dealt with at that stage (ie – agenda of the Confidential Closed session of Council stays the same EXCEPT for the matter(s) which have been dealt with in Open Council.)

### **35. Decisions of the Council**

A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council. **(LGA – S371)**

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

If a Council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended. **(Reg – CI 253)**

### **37. Rescinding or altering resolutions**

- (i) A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with clause 18. **(LGA – S372(1))**
- (ii) If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice must also be given of the proposed further motion.
- (iii) If a notice of motion to rescind or alter a resolution is given:
  - a. at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission or alteration has been dealt with; or **(LGA – S372(2))**
  - b. at any time after the meeting at which the resolution is carried, no further action to carry the resolution into effect may be taken after receipt of the notice of motion until the motion of rescission or alteration has been dealt with.
- (iv) In the case of a motion of alteration, subclause (iii) applies only to the extent that the resolution of Council would be affected by the motion of alteration, if it is carried.
- (v) If a motion has been negatived by the Council, a motion having the same effect must not be considered unless notice of it has duly been given in accordance with clause 18. **(LGA – S372(3))**
- (vi) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negatived by the Council, must be signed by at least 3 Councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negatived, as the case may be. **(LGA – S372(4))**
- (vii) If a motion to alter or rescind a resolution has been negatived, or if a motion which has the same effect as a previously negatived motion, is negatived, no similar motion may be brought forward within 3 months. This subclause may not be evaded by substituting a motion differently worded, but in principle the same. **(LGA – S372(5))**
- (viii) A motion to which this clause applies may be moved on the report of a committee of the Council and any such report must be recorded in the minutes. **(LGA – S372(6))**
- (ix) The provisions of this clause concerning negatived motions do not apply to motions of adjournment. **(LGA – S372(7))**

### **38. Motions of adjournment**

- (i) Debate shall not be permitted on any motion for adjournment of a meeting of the Council.

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

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

### **39. Questions of order**

- (i) The Chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the Chairperson, it is necessary to do so. **(Reg – CI 255(1))**
- (ii) A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson to the matter. **(Reg – CI 255(2))**
- (iii) The Chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council. **(Reg – CI 255(3))**
- (iv) The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed. **(Reg – CI 255(4))**
- (v) The Chairperson may reject any motion, amendment, or other matter which is, in the opinion of the Chairperson, out of order, before it is moved or seconded.

### **40. Acts of disorder**

- (i) A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a committee of the Council:
  - a. contravenes the Act, any regulation in force under the Act or this Code; or
  - b. assaults or threatens to assault another Councillor or person present at the meeting,
  - c. moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or committee, or addresses or attempts to address the Council or committee on such a motion, amendment or matter; or
  - d. insults or makes personal reflections on or imputes improper motives to any other Councillor or person; or
  - e. says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or committee into contempt; or **(Reg – CI 256(1))**
  - f. Leaves the meeting without the permission of the Chairperson before all the business has been concluded; or
  - g. reads at length from any correspondence, report or other document, without the leave of the Council.

- (ii) The Chairperson may require a Councillor:
  - a. to apologise for an act of disorder referred to in subclause (i) (a) or (b); or
  - b. to withdraw a motion or an amendment referred to in subclause (i) (c) and, where appropriate, to apologise without reservation; or
  - c. to retract and apologise for an act of disorder referred to in subclause (i) (d) or (e). **(Reg – CI 256(2))**
- (iii) A Councillor may, as provided by section 10 (ii) (a) or (b) of the Act, be expelled from a meeting of the Council for having failed to comply with a requirement under subclause (ii). The expulsion of a Councillor from the meeting by reason of subclause (ii) does not prevent any other action from being taken against the Councillor for the act of disorder concerned. **(Reg – CI 256(3) & LGA – S10(2))**

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

- (i) If disorder occurs at a meeting of the Council or committee of the Council, the chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well a disorder arising from the conduct of Councillors. **(Reg – CI 257 (1))**
- (ii) A member of the public may, as provided by clause 57(vi) be expelled from a meeting of the Council for engaging in or having engaged in disorderly conduct at the meeting. **(Reg – CI 257 (1)) & LGA – S10(2))**

#### **42. Power to remove persons from meeting after expulsion resolution**

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

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

a police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the Councillor or member from that place, and, if necessary, restrain the Councillor or member from re-entering that place. **(Reg – CI 258)**

## **PART 5 - COUNCIL COMMITTEES**

### **43. Confidential Session of Council**

- (i) The Council may resolve itself into a confidential session of to consider any matter before the Council. **(LGA – S373)**
- (ii) All the provisions of this Code relating to meetings of the Council, so far as they are applicable, extend to and govern the proceedings of a confidential session except the provisions: **(Reg – CI 259(1))**
  - (a) limiting the number and duration of speeches; and
  - (b) requiring Councillors to stand when speaking.
- (iii) The General Manager is responsible for reporting to the Council proceedings in a confidential session. It is not necessary to report the proceedings in full but any recommendations of the session must be reported. **(Reg – CI 259(2))**
- (iv) The Council must ensure that a report of the proceedings (including any recommendations of the session) is recorded in the Council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed. **(Reg – CI 259(3))**

### **44. Council may appoint committees**

- (i) The Council may appoint or elect such committees as it considers necessary. **(Reg – CI 260(1))**
- (ii) Such a committee is to consist of such number of Councillors of the Council as the Council decides. **(Reg – CI 260(2))**
- (iii) The quorum for a meeting of such a committee is to be:
  - (a) such number of members as the Council decides; or
  - (b) if the Council has not decided a number - a majority of the members of the committee. **(Reg – CI 260(3))**

### **45. Functions of committees**

The Council must specify the functions of each of its committees when the committee is appointed or elected, but may from time to time amend those functions. **(Reg – CI 261)**

### **46. Notice of committee meetings to be given**

- (i) The General Manager of the Council must send to each Councillor, at least 3 days before each meeting of the committee, a notice specifying:
  - a) the time and place at which and the date on which the meeting is to be held; and

- b) the business proposed to be transacted at the meeting. **(Reg – CI 262(1))**
- (ii) However, notice of less than 3 days may be given of a committee meeting called in an emergency. **(Reg – CI 262(2))**

#### **47. Non-members entitled to attend committee meetings**

- (i) A Councillor who is not a member of a committee of the Council is entitled to attend and speak at, but is not entitled to vote at, a meeting of the committee. **(Reg – CI 263(1))**
- (ii) However the Councillor is not entitled to:
  - 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. **(Reg – CI 263(2))**

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

- (i) A representation at a confidential meeting by a member of the public as to whether part of the meeting should be closed to the public, can only be made for a period of (1) minute, (ie – each member of the public will be limited to speaking for no more than one (1) minute each) immediately after the motion to close the part of the meeting is moved and seconded. **(Reg – CI 264)**
- (ii) The Chairperson of the confidential meeting may allow only such number of members of the public to make representations on the proposed closure as is sufficient, in the opinion of the Chairperson, to enable the confidential session to gauge the views of the members of the public present.
- (iii) The process which will be followed for public representations will be:

Step 1 – Chairperson calls for Motion to go into confidential session, and that motion is seconded;

Step 2 – Chairperson then asks the General Manager if any written representations have been received, or then, if any member present in the gallery wishes to make a verbal representation. Each verbal representation will be limited to one (1) minute per person;

Step 3 – After the verbal representations (if any) the Chairperson puts the Motion (to go into confidential session) to the meeting and if carried, the session (in confidential) will firstly discuss the matter(s) for which verbal representations have been made (to determine whether or not the subject matter be discussed in open Council or in the confidential session of Council;



Step 4 - When that matter has been decided, the persons who made the verbal representations should be informed as to whether the matter will be discussed in open, or in confidential session;

Step 5 – When the subject matter is decided at Step 3, there will be two ways that the matter can be dealt with – either the Confidential section of the meeting decides to deal with the matter in open Council (despite representations), or the confidential section of the session of the meeting decides to deal with the matter in open Council. Depending on the decision of the confidential session, these matters will then be dealt with as follows:

- a) If decided to be dealt with in confidential session – continue with the business in the ordinary course (ie the confidential agenda of the session stays)
- b) If decided to be dealt with in open Council – the confidential session of Council resolved to go back into open Council, and the matter which has been the subject of representations is dealt with at that stage (ie – agenda of confidential session stays the same EXCEPT for the matter(s) which have been dealt with in open council.)

#### **49. Procedure in committees**

- (i) Subject to subclause (3) each committee of the Council may regulate its own procedure. **(Reg – CI 265(1))**
- (ii) Without limiting subclause (1), a committee of the Council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.
- (iii) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands)

#### **50. Committee to keep minutes**

- (i) Each committee of council must ensure that full and accurate minutes of the proceedings of its meeting are kept. In particular, a committee must ensure that the following matters are recorded in the committee's minutes:
  - a) details of each motion moved at a meeting and of any amendments moved to it
  - b) the names of the mover and seconder of the motion or amendment
  - c) whether the motion or amendment is passed or lost. **(Reg - CI 266(1))**
  - d) if a motion is passed or lost on the casting vote of the Chairman, a statement to that effect.
- (ii) As soon as the minutes of an earlier meeting of a committee of the council have been confirmed at a later meeting of the committee, the person presiding at the later meeting must sign the minutes of the earlier meeting. **(Reg - CI 266(2))**

## **51. Chairperson and deputy chairperson of committees**

- (i) The chairperson of each committee of the Council, must be:
  - a. the Mayor; or
  - b. if the Mayor does not wish to be the chairperson of a committee - a member of the committee elected by the Council; or **(Reg – CI 267(1))**
  - c. if the Council does not elect such a member - a member of the committee elected by the committee. **(Reg – CI 267(1))**
- (ii) The Council may elect a member of a committee of the Council as deputy chairperson of the committee. If the Council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson. **(Reg – CI 267(2))**
- (iii) If neither the chairperson nor the deputy chairperson of a committee of the Council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee. **(Reg – CI 267(3))**
- (iv) The chairperson is to preside at a meeting of a committee of the Council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting. **(Reg – CI 267(4))**

## **52. Absence from committee meetings**

- (i) A member ceases to be a member of a committee if the member (other than the Mayor);
  - a. has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or
  - b. has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences. **(Reg – CI 268(1))**
- (ii) Subclause (i) does not apply if all of the members of the Council are members of the committee. **(Reg – CI 268(2))**

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

### **53. Reports of committees**

- (i) If in a report of a committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation. **(Reg – CI 269(1))**
- (ii) The recommendations of a committee of the Council are, in so far as adopted by the Council, resolutions of the Council. **(Reg – CI 269(2))**
- (iii) A confidential session or Committee of the Council shall not communicate with any outside person or authority except through the Mayor or the General Manager, as the persons of the Council duly authorised for the purpose.
- (iv) If a committee of Council passes a resolution, or make a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must:
  - a) make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended; and
  - b) report the resolution or recommendation to the next meeting of the Council. **(Reg – CI 269(3))**

### **54. Disorder in committee meetings**

The provisions of the Act, the Regulation and this Code relating to the maintenance of order in Council meetings apply to meetings of committees of the Council in the same way as they apply to meetings of the Council. **(Reg – CI 270)**

### **55. Committee may expel certain persons from its meetings**

- (i) If a meeting or part of a meeting of a committee of the Council is closed to the public in accordance with section 10A of the Act, any person who is not a Councillor may be expelled from the meeting as provided by section 10 (2) (a) or (b) of the Act. **(Reg – CI 271 (1))**
- (ii) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council, committee, or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place, and, if necessary, restrain that person from re-entering that place. **(Reg – CI 271 (2))**

### **56. General Business / Questions and Statements**

During the time provided at the Policy and Resource Committee meeting, every Councillor has the right to ask questions or make statements on any issue.

### **57. Committees shall not have power to incur expenditure**

A Committee of the Council shall not have power to incur expenditure or to bind the Council. Recommendations or reports of Committees shall not have effect unless

and until adopted by the Council. Provided that the Council may delegate to Committees functions of inspection and supervision, and any orders which a Committee may find it necessary to give in pursuance of any such delegation shall be given to or through the General Manager.

## **PART 6 - PECUNIARY INTERESTS**

### **58. Pecuniary interest**

- (i) For the purposes of this Part, a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided in clause 50.
- (ii) A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in clause 51.

### **59. Persons who have a pecuniary interest**

- (i) For the purposes of this Part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
  - a. the person; or
  - b. the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, Or
  - c. a company or other body of which the person, or a nominee, partner or employer of the person, is a member **(LGA – S443(1))**
- (ii) However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (i) (b) or (c):
  - a. if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body; or
  - b. just because the person is a member of, or employed by, a Council or a statutory body or is employed by the crown; or
  - c. just because the person is a member of, or employed by, a Council or a statutory body or is a member of a company or other body that has a pecuniary interest in the matter if the person has no beneficial interest in any shares of the company or body. **(LGA – S443(3))**

### **60. Interests that need not be declared**

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

- a) an interest as an elector
- b) an interest as a ratepayer or a person liable to pay a charge

- c) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public or a section of the public that includes persons who are not subject to this Part
- d) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part
- e) an interest as a member of a club or other organisation or association, unless the interest is as a holder of an office in the club or organisation (whether remunerated or not)
- f) an interest of a member of a Council committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee
- g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument, other than an instrument that effects a change of permissible uses of:
  - (i) land in which the person or another person with whom the person is associated as provided in 58(1)(b) or (c) has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise); or
  - (ii) land adjoining, or adjacent to, or in proximity to land referred to in subparagraph (i),

if the person or the person, company or body referred to in 58(1)(b) or (c) would by reason of the proprietary interest have a pecuniary interest in the proposal
- h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
- i) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership

- j) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
  - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation;
  - (ii) security for damage to footpaths or roads;
  - (iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract.
- k) an interest relating to the payment of fees to Councillors (including the mayor and deputy mayor)
- l) an interest relating to the payment of expenses and the provision of facilities to Councillors (including the mayor and deputy mayor) in accordance with a policy under Section 252 of the Act.
- m) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor
- n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person
- o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor or member of a council committee
- p) an interest arising from appointment of a Councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

## **61. Disclosure and participation in meetings**

- (i) A Councillor, or a member of a Council committee, who has a pecuniary interest in any matter with which Council is concerned and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. **(LGA - S451(1))**
- (ii) A general notice given to the General Manager in writing by a Councillor or a member of a council committee to the effect that the Councillor or member, or the Councillor's or member's spouse, de facto partner or relative, is:

- a) a member, or in the employment, of a specified company or other body;  
**or**
  - b) a partner, or in the employment, of a specified person, is, unless and until the notice is withdrawn, sufficient disclosure of the Councillor's or member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the Council or Council committee after the date of the notice. **(LGA S454)**
- (iii) The Councillor or member must not be present at, or in sight of, the meeting of the council or committee:
  - a) at any time during which the matter is being considered or discussed by the Council or committee, or
  - b) at any time during which the council or committee is voting on any question in relation to the matter. **(LGA - S451(2))**
- (iv) A Councillor or member of a Council Committee does not breach this Clause if the Councillor or member of a Council Committee did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest. **(LGA - S457)**

## **62. Non-Pecuniary Conflicts of Interest**

A non-pecuniary conflict of interest is any private or personal interest which does not amount to a pecuniary interest. Examples are friendship, membership of an association or involvement or interest in an activity.

### *How Should Non-Pecuniary Interests Be Dealt With?*

If a Councillor has declared a non-pecuniary conflict of interests he/she has a broad range of options for managing the conflict. The option he/she chooses will depend on an assessment of the circumstances of the matter, the nature of his/her interest and the significance of the issue being dealt with. He/She must deal with a non-pecuniary conflict of interests in at least one of these ways:

- It may be appropriate that no action is taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist;
- Limit involvement if practical (for example, participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (for example, relinquishing or divesting the personal interest that creates the conflict).



- Have no involvement by absenting himself/herself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply (particularly if he/she has a significant non-pecuniary conflict of interest).
- A Councillor who has a non-pecuniary interest in a matter before the Council of the type that could reasonably be perceived to influence the Councillors' actions shall disclose the interest and the nature of the interest to the meeting as soon as practicable.

If it is the intention of the Councillor to participate in the consideration of the matter and/or vote on the matter, that intention is to be made known at the time the declaration is made.

If the relationship is sufficiently strong, the Councillor may consider vacating the Chamber whilst the matter is under consideration.

### *Reporting Conflicts of Interest*

If a Councillor has a non-pecuniary conflict of interests, he/she must disclose the nature of the conflict. If this is in a meeting, do so as soon as practicable.

## **63. Disclosures by Advisors**

- (i) A person giving advice to the council at a council or council committee meeting must disclose pecuniary interests in accordance with Section 456;
- (ii) The advisor must not be present at, or in sight of, the meeting of the Council or committee:
  - a) at any time during which the matter is being considered or discussed by the Council or the committee;
  - b) at any time during which the Council or committee is voting on any question in relation to the matter.

## **64. Disclosures to be recorded**

A disclosure made at a meeting of the Council or Council committee must be recorded in the minutes of the meeting. **(LGA - S453)**

## **PART 7 - PRESS AND PUBLIC**

### **65. Public notice of meetings**

- (i) The Council must give notice to the press and public of the times, dates and places of its meetings and meetings of those of its committees of which all the members are Councillors. **(LGA - S9(1))**
- (ii) The Council and each such committee must have available for the public at its offices and at each meeting, copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting. **(LGA - S9(2))**
- (iii) In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the General Manager, is likely to take place when the meeting is closed to the public:
  - a) the agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item) and;
  - b) the requirements of Subsection (2) of this clause, with respect to the availability of business papers do not apply to the business papers for that item of business. **(LGA - S9(2A))**
- (iii) The copies are to be available to the press and public as nearly as possible to the time they are available to Councillors. **(LGA - S9(3))**. In respect to the public, copies are to be made available on the Friday from 4.00pm preceding the Ordinary meeting.
- (iv) The copies are to be available free of charge. **(LGA - S9(4))**
- (v) The advertisements referred to in this part shall be placed in the SRN, prior to the meetings being held, notifying the public as to the place, dates and times the ordinary meetings of Council, are scheduled to meet. **(Reg - CI 232)**

#### **Note:**

**The requirement to advertise the holding of a meeting of the Council or a committee meeting does not apply to Extraordinary meetings – (Reg CI – 232(5))**

### **66. Attendance at meetings of the Council**

- (i) Everyone is entitled to attend a meeting of the Council and those of its committees where all the members are Councillors. **(LGA - S10(1)(a))**
- (ii) The Council must ensure that all meetings of the Council and of such committees are open to the public. **(LGA - S10(1)(b))**
- (iii) A person (whether a Councillor or another person) is not entitled to be present at a meeting of the Council or a committee if expelled under Clause 42 of this Code. **(LGA - S10(2))**

- (v) The Council will permit television cameras or audio tapes, operated by recognised media, to record proceedings of Open Council and Open Committee meetings subject to arrangements being made with the General Manager prior to the meeting.
- (vi) The Council, or a committee of the Council of which all the members are Councillors, may close to the public so much of its meeting as comprises:
  - a) the discussion of any of the information listed in sub-clause (6), or;
  - b) the receipt or discussion of any of the information so listed. **(LGA - S10A(1))**
- (vii) For the purposes of sub-clause (5), the matters and information are the following:
  - a) personnel matters concerning particular individuals,
  - b) the personal hardship of any resident or ratepayers,
  - 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. **(LGA - S 10A(2)(a) - (h))**
- (vii) A Council, or a Committee of the Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public. **(LGA - S10A(3))**
- (viii) Members of the public will be allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed. **(LGA - S10A(4))**

- (ix) A meeting is not to remain closed during the discussion of anything referred to in Clause 66(6) of this Code:
- a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
  - b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayers or a trade secret unless the Council or Committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest. **(LGA - S10B(1))**
- (x) A meeting is not to be closed during the receipt and consideration of information or advice referred to in Clause 66(6)(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. **(LGA - S10B(2))**
- (xi) 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 66(7), 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 66(6)). **(LGA - S10B(3))**
- (xii) 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
    - ii. to Councillors or to employees of the Council, or
    - iii. cause a loss of confidence in the Council or Committee. **(LGA - S10B(4))**
- (xiii) In deciding whether part of a meeting is to be closed to the public, the Council or Committee concerned must have regard to any relevant guidelines issued by the Director-General. **(LGA - S10B(5))**
- (xiv) Part of a meeting of a Council, or of a Committee of the Council of which all the members are Councillors, may be closed to the public while the Council or Committee considers a matter that has not been identified in the agenda for the meeting as a matter that is likely to be considered when the meeting is closed, but only if:

- a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in Clause 66(6), and
  - b) the Council or Committee, after considering any representations made under Clause 66(8), resolves that further discussion of the matter:
    - i. should not be deferred (because of the urgency of the matter), and
    - ii. should take place in a part of the meeting that is closed to the public. **(LGA - S10(C))**
- (xv) a) 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;
- b) The grounds must specify the following:
- i. the relevant provision of Clause 66(6),
  - ii. the matter that is to be discussed during the closed part of the meeting,
  - iii. the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest. **(LGA - S10(D))**

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

- (i) The Council and a committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting. **(LGA - S11(1))**
- (ii) This Clause does not apply if the correspondence or reports:
  - a) relate to a matter that was received or discussed; or
  - b) were laid on the table at, or submitted to, the meeting,
 when the meeting was closed to the public. **(LGA - S11(2))**
- (iii) This Clause does not apply if the Council or Committee resolved at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in Clause 66(6), are to be treated as confidential. **(LGA - S11(3))**

## **PART 8 - MISCELLANEOUS**

### **68. Information relating to proceedings at closed meetings not to be disclosed**

- (i) If a meeting or part of a meeting of the Council or a committee of the Council is closed to the public in accordance with Clause 66(6), a person must not, without the authority of the Council or the Committee disclose, otherwise than to the Council or to a Councillor, information with respect to the discussion at, or the business of, the meeting. **(LGA - S664(1A))**
- (ii) Sub-clause (1) does not apply to the report of a committee of the Council after it has been presented to the Council **(LGA - S664(1B)(a))**

### **69. Inspection of the minutes of the Council or a committee**

- (i)
  - a) An inspection of the minutes of the Council or committee of the Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes. **(Reg – CI 272(1))**
  - b) A copy of the minutes of the Ordinary meetings of the Council shall be made available for display in the Jerilderie Town Library and in each of the three service centres within the Council Local Government area
  - c) A copy of the minutes of the Ordinary meetings of the Council shall be made available on the Council's website.
- (ii) The General Manager must ensure that the minutes of the Council and any minutes of a committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them. **(Reg – CI272(2))**

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

- (i) A person may use a tape recorder to record the proceedings of a meeting of the Council or a committee of a Council only with the authority of the Council or committee. **(Reg - CI 273(1))**
- (ii) A person may be expelled from a Council meeting by the mayor, or from a Council committee meeting by the Chairperson of a Council committee, for having used a tape recorder in contravention of this Clause. **(Reg – CI 273(2))**

#### **Note:**

**Clause 66 permits television cameras or audio tapes to be operated by recognised media.**

- (iii) If any such person, after being notified of a direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the person presiding, may, by using only such force as is necessary, remove the first - mentioned person from that place and, if necessary, restrain that person from re-entering that place. **(Reg - CI 273(3))**

- (iv) In this Clause, **tape recorder** includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not. **(Reg - Cl 273(4))**

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

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

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

## **72. Public Addresses**

Members of the public who have a direct interest in a matter before Council are able to address the Council on that matter. Arrangements must be made with the General Manager prior to the meeting to speak on the matter.

## **73. Matters not in the Code**

Where at a Council meeting, meeting practice matters arise which are in all cases not provided for in this Code resort shall be had to the rules, forms, and usages of the Legislative Assembly of New South Wales in force for the time being, so far as the same are applicable to proceedings of the Council.

## **74. Smoking on Council's premises**

Smoking will not be permitted at any Council meeting or any committee meeting held on Council premises or attended by Council staff. This is in accordance with Council's no smoking policy, and will remain in force despite any change which may occur in that policy in the future.

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

- (i) The General Manager is entitled to attend, but not to vote at, a meeting of the Council or a meeting of a Committee of the Council of which all the members are Councillors.
- (ii) 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.

- (iii) However, the General Manager may be excluded from a meeting of the Council or a Committee while the Council or Committee deals with a matter relating to the standard performance of the General Manager or the terms of the employment of the General Manager. **(LGA - S376)**
- (iv) The General Manager (or his nominee) will attend each Council and Committee meeting.

## **76. Common Seal**

- (i) The Seal of a Council must be kept by the Mayor or the General Manager, as the Council determines **(Reg – CI 400(1))**
- (ii) The Seal of a Council may be affixed to a document only in the presence of:
  - a) the Mayor and the General Manager, or
  - b) at least one Councillor (other than the Mayor) and the General Manager, or
  - c) the Mayor and at least one other Councillor, or
  - d) at least 2 Councillors other than the Mayor. **(Reg – CI 400(2))**
- (iii) The affixing of a Council Seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence. **(Reg – CI 400(3))**
- (iv) The Seal of the Council must not be affixed to a document unless the document relates to the business of the Council, and the Council has resolved (by resolution specifically referring to the document) that the seal be so affixed. **(Reg - CI 400(4))**
- (v) For the purposes of subclause (4), a document in the nature of a reference or certificate of services for an employee of the Council does not relate to the business of the Council. **(Reg - CI 400(5))**

## **77. Amendment of Code**

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

## **78. Appointment/Election of Councillor Delegates to attend Conferences/Seminars or Committees.**

- (i) That where a Councillor or Councillors is/are to be nominated to attend a conference and/or seminar, the matter will be dealt with in the following manner:
  - a) the Council appropriate committee will consider the attendance of Councillors at such nominated conference/seminar; acceptance, and



voting on which Councillor/s are to attend shall only be undertaken at a meeting of the Council.

- b) in cases where Council does elect/nominate a Councillor/s to attend a conference or seminar, and the Councillor/s, after the Council meeting, find that they cannot attend the conference or seminar, the Mayor be given authority to nominate or appoint an alternate delegate to attend in place of the elected/nominated Councillor/s
- c) it be noted that, in cases where there is insufficient time for nomination etc, and consideration by the full Council, the Mayor has Delegated Authority to nominate and authorise Councillors to attend a given conference/seminar.

<b>Policy Name:</b>	<b>Code of Meeting Practice</b>
<b>Responsibility:</b>	General Manager
<b>Council's Initial Review:</b>	Sept 2012
<b>Advertisement for Public Notice:</b>	3/10/12
<b>Public notice Period date:</b>	3/10/12-31/10/12
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<b>Review Date:</b>	25 May 2016
<b>Minute Number:</b>	02/05/16
<b>Review Date:</b>	
<b>Minute Number:</b>	

Signed.....

Position.....

Dated.....

Amendments adopted by Murrumbidgee Council at its Extraordinary Meeting of 25 May 2016

Refer Minute No: 02/05/16