

Ku-ring-gai Council

Code

Code of Meeting Practice

Version Number 7

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Code of Meeting Practice

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Related Policies (Council & Internal)	Code of Conduct Conflict of Interests Policy Councillor Access to Information and Interaction with Staff Policy <i>Department of Local Government, Closed Council Meetings, Circular no. 07-08, 11 April 2007</i> <i>Department of Local Government, Guidelines for the Model Code of Conduct for Local Councils in NSW, October 2008</i> <i>Department of Premier and Cabinet, Division of Local Government, Meetings Practice Note no. 16, August 2009</i> <i>Department of Local Government, Open Meetings Guidelines, July 1998</i>	
Related Documents - Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements, etc	(list any other Council documents (plans, procedures, guidelines, forms, etc) relate to the policy) e.g. Council's procedures for the receipt of gifts and benefits	(enter in this section any details of how the contents of these documents relate to this policy)

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Other References	See cross reference list between the Act or Regulation and this Code on the next page.	
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Cross references between the Act or Regulation and this Code

Section in Act	Clause in Code	Clause in Regulation	Clause in Code
9	3.6, 7.1	232	7.1
10	4.2, 4.3, 4.5, 7.2, 8.4	233	2.5
10A	3.6, 4.5, 7.3 - 7.7, 8.1	234	2.6
10B	7.4	235	2.6
10C	7.5	235A	2.6
10D	7.6	236	3.1, 3.7
11	7.7	237	3.2
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12B	7.7	240	3.6
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234	2.6	242	3.8
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365	2.1	244	3.10
366	2.2	245	3.11
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457	6.5, 6.6	267	1.3, 5.7
458	6.5	268	5.8
664	8.1	269	5.10
		270	4.1, 4.2, 4.3, 4.4
		271	4.5
		272	8.2
		273	8.4
		412	8.1

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1	(date version comes into effect)	09/05/2005		Original Version
2	10/05/2005	09/06/2009	(name of Council officer who authors the policy)	Review and update
3.				Review and update, Regulation changes, Code of Conduct changes
4.	10/06/2009	11/05/2010		No changes following public exhibition April/May 2009
5.	12/05/2010	29/04/2013		Revision following DLG Meetings Practice Note August 2009 & DLG PBP Review
6.	30/04/2013			Review and update – changes to s.451 of the Local Government Act 1993
7.	30/04/2013	(date version ceased to be in effect)	Amber Moloney	28/04/2016 minor modification made to : 6.5.1 – additional subclauses (4) and (5). 23/08/2017 - Update to new format

Part 1. Introduction

1.1. Purpose

The purpose of this Code is to set out the manner in which meetings of Ku-ring-gai Council and formal committees are to be convened and conducted.

1.2. Objectives

The objectives of this Code are to:

- provide a summary of the statutory provisions relating to the conduct of council and formal committee meetings supplemented by additional provisions
- ensure that council and committee meetings are held in a manner that is orderly and efficient and earns the respect of the Ku-ring-gai community
- ensure that council and committee meetings display open government and maximise access and participation by the community
- ensure that councillors conduct themselves with high standards of behaviour, making a positive contribution to all debates and decisions
- ensure that meetings comply with the basic principle of the *Local Government Act 1993* that councillors not involve themselves in day-to-day administration and meetings are restricted to matters of policy, direction, resource allocation and statutory decisions.

1.3. Definitions

(In this section you must summarise the responsibilities of the key stakeholders named in the policy. Who has the overall responsibility for ensuring compliance with this policy?).

In this Code:

Act means the *Local Government Act 1993*

chairperson means, in relation to a meeting of the council, the person presiding at the meeting as provided by section 369 of the Act, and, in relation to a meeting of a committee, the person presiding at the meeting as provided by clause 267 of the Regulation

committee means a committee established under clause 260 of the Regulation or the council when it has resolved itself into a committee of the whole

employee means an employee of Ku-ring-gai Council and includes the General Manager

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

relative¹ means, in relation to a person, any of the following:

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

¹ see dictionary (section 3) of the Act.

1.4. Legislation

The principle legislation governing council and committee meetings is the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*.

This Code is made pursuant to section 360(2) of the Act which provides that a council may adopt a Code of Meeting Practice that incorporates the relevant legislation supplemented with further provisions that are not inconsistent with the legislation. Under section 361 a draft Code must be publicly exhibited for 28 days and submissions must be invited for 42 days. Under section 362 council must consider all submissions received before adoption of the Code which can be with amendments or in original draft form.

Pursuant to section 360(3) of the Act, the council and a committee of which all members are councillors must conduct its meetings in accordance with this Code.

This Code incorporates relevant provisions of the Act and the Regulation. **Words appearing in *italics* are a direct quote from the Act or the Regulation.**

In the event of any inconsistency between this Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency. Any ruling or interpretation not covered by this code or legislation shall be determined by resolution of council.

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

1.5. Notes and Attachments

Footnotes in this Code are explanatory notes and together with the Attachments do not form part of the Code. They are provided to assist understanding.

Part 2. Convening of and Attendance at Council Meetings

2.1. Frequency of meetings of the Council

2.1.1. Section 365 of the Act

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

2.1.2. Ordinary council meetings shall be held on the second and fourth Tuesdays of each month commencing at 7.00pm in the Council Chambers, 818 Pacific Highway, Gordon unless the council by resolution determines otherwise or an extraordinary meeting is called.

2.2. Extraordinary meetings

2.2.1. Section 366 of the Act

If the mayor receives a request in writing signed by at least 2 councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable but in any event within 14 days after receipt of the request.

2.2.2. The mayor or general manager may call an extraordinary meeting of the council on any matter or matters considered necessary.

2.2.3. The mayor, in consultation with the general manager, shall determine the time and place of an extraordinary meeting.

2.2.4. If the mayor refuses or delays in calling an extraordinary meeting after receiving a request, signed by at least 2 councillors, those councillors may, in writing, request the general manager to call the meeting. The general manager shall call the meeting as soon as practicable.

2.3. Notice of meetings

2.3.1. Section 367 of the Act

(1) *The general manager of a council must send to each councillor, at least 3 days before each meeting of the council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.*

(2) *Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.*

(3) *A notice under this section and the agenda for, and the business papers relating to, the meeting may be given to a councillor in electronic form but only if all councillors have facilities to access the notice, agenda and the business papers in that form.*

2.3.2. Notice of ordinary or extraordinary council meetings shall be given to each councillor by electronic means or by delivery to a nominated address within the Ku-ring-gai local government area at least three (3) days before the meeting date for ordinary meetings and at least 24 hours before the meeting date for extraordinary meetings.

2.4. Quorum

2.4.1. Section 368 of the Act

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.

2.5. What happens when a quorum is not present?

2.5.1. Clause 233 of the Regulation

- (1) *A meeting of a council must be adjourned if a quorum is not present:*
 - (a) *within half an hour after the time designated for the holding of the meeting, or*
 - (b) *at any time during the meeting.*
- (2) *In either case, the meeting must be adjourned to a time, date and place fixed:*
 - (a) *by the chairperson, or*
 - (b) *in his or her absence - by the majority of the councillors present, or*
 - (c) *failing that, by the general manager.*
- (3) *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.*

2.6. Absence from Council meetings

2.6.1. Clause 235 of the Regulation

A councillor cannot participate in a meeting of a council unless personally present at the meeting.

2.6.2. Clause 235A of the Regulation

- (1) *A councillor's application for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent.*
- (2) *A councillor who intends to attend a council meeting despite having been granted leave of absence should, if practicable, give the general manager at least 2 days' notice of his or her intention to attend.*

2.6.3. Section 234(2) of the Act

For the purposes of subsection (1)(d) 2 a councillor applying for a leave of absence from a meeting of a council does not need to make the application in person and the council may grant such leave in the absence of that councillor.

² section 234(1)(d) of the Act provides that a civic office becomes vacant if the holder is absent from 3 consecutive ordinary meetings of the council (unless the holder is absent because he or she has been suspended from office under section 482) without: (i) prior leave of the council, or (ii) leave granted by the council at any of the meetings concerned.

Part 3. Conduct of Council Meetings

3.1. Chairperson of Council meetings

3.1.1. Section 369 of the Act³

- (1) *The mayor or, at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.*
- (2) *If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.*

3.1.2. Clause 236 of the Regulation

- (1) *If no chairperson is present at a meeting of a council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.*
- (2) *The election must be conducted:*
 - (a) *by the general manager or, in his or her absence, an employee of the council designated by the general manager to conduct the election, or*
 - (b) *if neither of them is present at the meeting or there is no general manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.*
- (3) *If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.*
- (4) *For the purposes of subclause (3), the person conducting the election must:*
 - (a) *arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and*
 - (b) *then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.*
- (5) *the candidate whose name is on the drawn slip is the candidate who is to be the chairperson.*

3.2. Chairperson to have precedence

3.2.1. Clause 237 of the Regulation

When the chairperson rises during a meeting of a council:

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

³ under section 231(3) of the Act, the deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function, or if there is a casual vacancy in the office of Mayor.

3.3. Chairperson's duty with respect to motions

3.3.1. Clause 238 of the Regulation

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

3.4. Minutes

3.4.1. Section 375 of the Act

- (1) *The council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the council.*
- (2) *The minutes must, when they have been confirmed at a subsequent meeting of the council, be signed by the person presiding at that subsequent meeting.*

3.4.2. Clause 254 of the Regulation

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.*

3.4.3. The correctness of the minutes of every preceding meeting, including any extraordinary meeting, not previously confirmed must be dealt with at a meeting of the council, in order that such minutes may be confirmed.

3.4.4. 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.

3.5. Order of business⁴

3.5.1. Clause 239 of the Regulation

- (1) *At a meeting of a council (other than an extraordinary meeting), the general order of business is (except as provided by this Regulation) as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix the general order of business) as fixed by resolution of the council.*
- (2) *The order of business fixed under subclause (1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.*
- (3) *Despite clause 250, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.*

⁴ the current order of business at a council meeting is set out in Attachment A.

- 3.5.2. The order of business may be altered by a resolution. Only the mover of a motion to alter the order of business may speak to the motion.
- 3.5.3. The order of business for an extraordinary meeting shall be determined by the general manager having regard to the order of business for ordinary meetings and the business to be transacted at the extraordinary meeting.

3.6. Agenda and Business Papers for Council meetings

3.6.1. Clause 240 of the Regulation

- (1) *The general manager must ensure that the agenda for a meeting of the council states:*
 - (a) *all matters to be dealt with arising out of the proceedings of former meetings of the council, and*
 - (b) *if the mayor is the chairperson - any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and*
 - (c) *subject to subclause (2), any business of which due notice has been given.*
- (2) *The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would be) unlawful. The general manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council.*
- (3) *The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.*
- (4) *The general manager must ensure that the details of any item of business to which section 9(2A) of the Act applies are included in a business paper for the meeting concerned.*
- (5) *Nothing in this clause limits the powers of the chairperson under clause 243.*

- 3.6.2. Items of correspondence relating to agenda items shall be circulated as “Additional Agenda Information”.
- 3.6.3. Items of correspondence of a general nature shall be circulated as “Councillor Information” separate from the business paper with confidential items headed “Confidential Information”.
- 3.6.4. Confidential items shall be circulated as “Confidential Agenda Information”.
- 3.6.5. Confidential business papers shall be distributed only to councillors and such employees as the general manager determines.
- 3.6.6. Where a councillor is, or in the opinion of the general manager is likely to be, the subject of proceedings by or against the council, any legal advice, reports or correspondence dealing with those proceedings or likely proceedings shall, if the matter is a kind of business referred to in section 10A of the Act, be withheld from the business paper of that councillor and shall not be made available to that councillor by any person.
- 3.6.7. As circumstances necessitate, reports not listed for consideration on a business paper shall be made available at a meeting and shall be dealt with at the conclusion of General Business so as to enable councillors to be able to read the report.
- 3.6.8. Correspondence shall not be presented or read by councillors at a council meeting without the approval of the council.

3.7. Notice of business and Notices of Motion

3.7.1. Clause 241 of the Regulation

- (1) *A council must not transact business at a meeting of the council:*
 - (a) *unless a councillor has given notice of the business in writing within such time before the meeting as is fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by resolution of the council, and*
 - (b) *unless notice of the business has been sent to the councillors in accordance with section 367 of the Act.*
- (2) *Subclause (1) does not apply to the consideration of business at a meeting if the business:*
 - (a) *is already before, or directly relates to a matter that is already before, the council, or*
 - (b) *is the election of a chairperson to preside at the meeting as provided by clause 236(1), or*
 - (c) *is a matter or topic put to the meeting by the chairperson in accordance with clause 243, or*
 - (d) *is a motion for the adoption of recommendations of a committee of the council.*
- (3) *Despite subclause (1), business may be transacted at a meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:*
 - (a) *a motion is passed to have the business transacted at the meeting, and*
 - (b) *the business proposed to be brought forward is ruled by the chairperson to be of great urgency.*

Such a motion can be moved without notice.
- (4) *Despite clause 250, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.*

3.7.2. A Notice of Motion signed and in writing must be provided to the general manager no later than 2.00 pm on the Monday eight (8) days prior to a meeting.

3.7.3. Only the actual wording of the Notice of Motion will appear on the business paper. Any background notes will be circulated as an attachment to the business paper.

3.7.4. Councillors should not submit more than two (2) Notices of Motion to a meeting unless justifiable urgent circumstances exist.

3.7.5. The chairperson shall consider a matter to be of great urgency when it requires a resolution in the first instance to action and only if consideration could not be deferred until the next meeting of council.

3.8. Business paper for extraordinary meetings

3.8.1. Clause 242 of the Regulation

- (1) *The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.*
- (2) *Despite subclause (1), business may be transacted at an extraordinary meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:*
 - (a) *a motion is passed to have the business transacted at the meeting, and*

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(b) *the business proposed to be brought forward is ruled by the chairperson to be of great urgency.*

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

(3) *Despite clause 250, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.*

3.9. Mayoral minutes

3.9.1. Clause 243 of the Regulation

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

3.9.2. Mayoral minutes shall always be in writing and be signed by the mayor.

3.10. Report of a Departmental representative

3.10.1. Clause 244 of the Regulation

When a report of a Departmental representative has been presented to a meeting of a council in accordance with section 433 of the Act, the council must ensure that the report:

- (a) *is laid on the table at that meeting, and*
- (b) *is subsequently available for the information of councillors and members of the public at all reasonable times.*

3.11. Notice of motion - absence of mover

3.11.1. Clause 245 of the Regulation

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

- (a) *any other councillor may move the motion at the meeting, or*
- (b) *the chairperson may defer the motion until the next meeting of the council at which the motion can be considered.*

3.11.2. Where there is no objection to a Notice of Motion being taken as a formal motion, then the chairperson shall put the motion to the vote without debate.

3.12. Motions to be seconded

3.12.1. Clause 246 of the Regulation

A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clauses 243(2) and 250(5).⁵

3.12.2. The seconder of a motion or of an amendment may reserve the right to speak later in the debate.

3.12.3. It is permissible to debate the motion and an amendment concurrently.

3.13. How subsequent amendments may be moved

3.13.1. Clause 247 of the Regulation

If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the council at any one time.

3.13.2. It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.

3.14. Motions of dissent

3.14.1. Clause 248 of the Regulation

- (1) *A councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.*
- (2) *If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.*
- (3) *Despite clause 250, 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.*

3.15. Petitions

3.15.1. Where a petition has already been placed on an agenda, the councillor presenting the petition is to briefly refer to the subject matter and move a motion as to how the matter is to be determined by council. The usual motion would be along the lines of:

"That the petition be received and referred to the appropriate officer of council for attention."

3.15.2. Where a petition has not been placed on an agenda the councillor presenting the petition is to refer briefly to the subject matter of the petition without necessarily reading the petition and then hand it to the mayor for subsequent reading by the general manager (if necessary) and the councillor may move a motion as set out in 3.15.1 above.

3.15.3. Only when a petition is urgent or refers to business already placed on the agenda for that meeting is a councillor to recommend that action be taken on the basis of the petition.

⁵ clause 243(2) deals with Mayoral Minutes (see 3.9.1) and clause 250(5) deals with limitation as to the number of speeches (see 3.18.1).

3.15.4. No address to the council shall be allowed in relation to petitions when initially presented to council.

3.16. Questions may be put to councillors and employees

3.16.1. Clause 249 of the Regulation

(1) *A councillor:*

(a) *may, through the chairperson, put a question to another councillor, and*

(b) *may, through the general manager, put a question to a council employee.*

(2) *However, a councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.*

(3) *The councillor must put every such question directly, succinctly, and without argument.*

(4) *The chairperson must not permit discussion on any reply or refusal to reply to a question put to a councillor or employee under this clause.*

3.16.2. Questions without Notice shall always be in writing so as to remove any doubt as to whether the minutes have recorded the question correctly.

3.16.3. Questions shall not be so formed as to be an avoidance of a Notice of Motion.

3.16.4. Questions on Notice are limited to two (2) questions per Councillor per meeting.

3.16.5. No debate shall be taken on Questions without Notice.

3.17. Mode of address

3.17.1. Councillors shall on all occasions address their remarks through the chairperson and shall refer to other councillors and employees by their official designation.

3.17.2. Councillors, with the exception of the chairperson, or any person prevented by physical infirmity, shall stand when speaking.

3.17.3. The requirement to stand when speaking shall not include any part of the meeting where the council is in committee of the whole.

3.18. Limitation as to number of speeches

3.18.1. Clause 250 of the Regulation

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

(2) *A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.*

(3) *A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.*

(4) *Despite subclauses (1) and (2), a councillor may move that a motion or an amendment be now put:*

- (a) *if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or*
 - (b) *if at least 2 councillors have spoken in favour of the motion or amendment and at least 2 councillors have spoken against it.*
 - (5) *The chairperson must immediately put to the vote, without debate, a motion moved under subclause (4). A seconder is not required for such a motion.*
 - (6) *If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause (1).*
 - (7) *If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed.*
- 3.18.2. Each councillor shall be granted a maximum of five (5) minutes to speak on an item. A warning signal shall be given at 4 minutes and 30 seconds. No extensions of time shall be granted other than that permitted by 13.18.1.
- 3.18.3. The mayor is bound by the provisions of 3.18.1 above except when clarifying issues or statements during an address by a councillor so as to facilitate the progress of the meeting.

3.19. Relevance in debate

- 3.19.1. In the course of debate a councillor shall not introduce material that is irrelevant to the item under discussion. If a councillor is called to order for second time in a single speech for introducing irrelevant material, the councillor shall immediately cease speaking and resume their seat. Failure to do so shall constitute an act of disorder.

3.20. Voting at Council meetings

- 3.20.1. Section 370 of the Act
- (1) *Each councillor is entitled to one vote.*
 - (2) *However, the person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.*
- 3.20.2. If a motion, when put to the vote, results in a tied vote and a casting vote is not used, then the motion is unsuccessful.
- 3.20.3. Clause 251 of the Regulation
- (1) *A councillor who is present at a meeting of a council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.*
 - (2) *If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.*
 - (3) *The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 councillors rise and demand a division.*
 - (4) *When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the council's minutes.*
 - (5) *Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the council may*

resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.⁶

- 3.20.4. In those circumstances where a decision is unanimous, the words “CARRIED UNANIMOUSLY” shall be recorded in the minutes.
- 3.20.5. In those circumstances where a decision is not carried unanimously, the chairperson shall announce the names of the councillors who voted for and against a motion, or amendment, and the names shall be recorded in the minutes.

3.21. Decisions of the Council

- 3.21.1. Section 371 of the Act

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.

3.22. Resolutions passed at closed meetings

- 3.22.1. Clause 253 of the Regulation

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.

3.23. Recommittal of items

- 3.23.1. If, prior to the completion of a meeting, a councillor or group of councillors consider that a decision made earlier is lacking in judgement or precision a formal written Notice of Rescission shall be completed and brought to the immediate attention of the Council.
- 3.23.2. Such Notice of Rescission shall be dealt with as Business without Notice (see 3.7 and 3.24 of this Code).

3.24. Rescinding or altering resolutions

- 3.24.1. Section 372 of the Act

- (1) *A resolution passed by a council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with regulations made under section 360 and, if applicable, the council’s code of meeting practice.*
- (2) *If notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.*
- (3) *If a motion has been negatived by a council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with council’s code of meeting practice.*
- (4) *A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negatived by the council, must be signed by 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.*

⁶ part II of the Regulation 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.

- (5) *If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within 3 months. This subclause may not be evaded by substituting a motion differently worded, but in principle the same.*
- (6) *A motion to which this section applies may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.*
- (7) *The provisions of this section concerning negated motions do not apply to motions of adjournment.*
- 3.24.2. A notice of rescission must be placed on a council meeting agenda, or it can be brought forward as a matter of great urgency in accordance with clause 241(3) of the Regulation (see 3.7) if council so resolves.
- 3.24.3. A mayoral minute cannot be used as a device to bring forward a rescission motion, although if a mayoral minute is also signed by two other councillors, it can be regarded as a notice of rescission, and by virtue of one of the signatories being the mayor can receive prominence on the agenda.
- 3.24.4. If need be an extraordinary meeting may be called to consider a notice of rescission.
- 3.24.5. A rescission motion presented to council prior to the close of a meeting has the effect of stopping all action on the decision.
- 3.24.6. The mayor or any councillors have absolutely no authority to prevent implementation of a resolution of council where a notice of rescission is presented at some time after closure of a meeting.
- 3.24.7. Where a resolution of council involves the granting or refusal of consent or any other formal statutory licence giving rise to legal rights, and such decision has been communicated in writing to the applicant, council's decision is incapable of being revoked even if a notice of rescission is lodged at some future time.
- 3.24.8. If a notice of rescission is lodged in relation to a matter that involves a development approval, the notice of rescission should not be dealt with by council until the applicant and any objectors who have addressed council on the matter are informed in writing of the notice of rescission and the date of the meeting at which the notice of rescission is to be considered.
- 3.24.9. For the purposes of section 372(6), council sitting as a committee of the whole, is a committee of council.

3.25. Conclusion of meetings and motions of adjournment

- 3.25.1. The continuation of a meeting after 12.00 midnight shall be dependent upon a motion for extension being carried by at least two thirds of the members of the council being present at the meeting (e.g. if 10 councillors are present it will require a vote of at least 7 for the motion; if 9 are present, it will require a vote of at least 6).
- 3.25.2. Discussion shall not be permitted on any motions for adjournment of a Council meeting. If a motion for adjournment, when put to the vote, is lost, then the meeting shall continue and no further motion for adjournment may be put for a period of not less than half an hour.

3.26. Unfinished business

- 3.26.1. If at the conclusion of a meeting there is unfinished business, then the matters remaining to be dealt with on the business paper shall be brought forward to be dealt with at the next meeting of

the council, such business to be dealt with at the next meeting as priority items of business and listed on the business paper accordingly.

3.27. Reports of councillors and presentations

- 3.27.1. Councillors may provide a written report to council on proceedings of meetings attended on behalf of council. Such reports are to be received by the general manager no later than 12.00 noon on the Monday eight (8) days prior to a council meeting. Such reports shall be reported in documents attached to the business paper as councillor information.
- 3.27.2. Councillors should present plaques, certificates, awards and other ceremonial items received on behalf of council at a council meeting.

3.28. Annual elections

- 3.28.1. Council shall determine the date of the meeting in September each year at which the election for mayor, deputy mayor, committee members and delegates is to be held.

Part 4. Keeping Order at Meetings

4.1. Questions of order

4.1.1. Clause 255 of the Regulation

- (1) *The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.*
- (2) *A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.*
- (3) *The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.*
- (4) *The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.*

4.1.2. In accordance with clause 270 of the Regulation, the provisions of this clause apply to meetings of committees of the council in the same way as they apply to meetings of the council.

4.2. Acts of disorder by councillors

4.2.1. Clause 256 of the Regulation

- (1) *A councillor commits an act of disorder if the councillor, at a meeting of a council or a committee of a council:*
 - (a) *contravenes the Act or any regulation in force under the Act, or*
 - (b) *assaults or threatens to assault another councillor or person present at the meeting, or*
 - (c) *moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or committee, or addresses or attempts to address the council or committee on such a motion, amendment or matter, or*
 - (d) *insults or makes personal reflections on or imputes improper motives to any other councillor, or*
 - (e) *says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or committee into contempt.*
- (2) *The chairperson may require a councillor:*
 - (a) *to apologise without reservation for an act of disorder referred to in subclause (1) (a) or (b), or*
 - (b) *to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation, or*
 - (c) *to retract and apologise without reservation for an act of disorder referred to in subclause (1) (d) or (e).*
- (3) *A councillor may, as provided by section 10(2)(a) or (b) of the Act be expelled from a meeting of a council for having failed to comply with a requirement under subclause (2). The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.*

4.2.2. A councillor may seek a ruling from the chairperson on whether another councillor is out of order or has committed an act of disorder, whereupon the chairperson shall make a ruling.

- 4.2.3. If a councillor, after having been called to order by the chairperson on three (3) occasions at the same meeting, refuses to come to order, the councillor shall have committed an act of disorder.
- 4.2.4. If a councillor, having been called on by the meeting chairperson to withdraw a disorderly or improper remark and apologise unreservedly, fails to do so, the councillor shall have committed an act of disorder.
- 4.2.5. When, through a ruling of the meeting a councillor has committed an act of disorder, the chairperson may immediately, without debate, put to the meeting a motion that the councillor be excluded from the remainder of the meeting. If the motion is carried the councillor shall leave the chamber immediately and not participate further in the meeting.
- 4.2.6. In accordance with clause 270 of the Regulation, the provisions of this clause apply to meetings of committees of the council in the same way as they apply to meetings of the council.

4.3. Dealing with disorder

4.3.1. Clause 257 of the Regulation

- (1) *If disorder occurs at a meeting of a council, the chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.*
- (2) *A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of a council for engaging in or having engaged in disorderly conduct at the meeting.*

4.3.2. In accordance with clause 270 of the Regulation, the provisions of this clause apply to meetings of committees of the council in the same way as they apply to meetings of the council.

4.3.3. Members of the public present in the gallery of a meeting shall not engage in any disruptive or inappropriate behaviour or pass any note or document to a councillor during the course of the meeting without the consent of the chairperson.

4.3.4. A councillor shall not pass any note or document to a member of the public during a meeting without the consent of the chairperson.

4.4. Power to remove persons from meeting after expulsion resolution

4.4.1. Clause 258 of the Regulation

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

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

a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member from that place and, if necessary, restrain the councillor or member from re-entering that place.

- 4.4.2. For the purposes of this clause, the general manager or, in the absence of the general manager, an employee designated by the general manager, shall be deemed to be the person authorised by council for the removal of a person from a meeting.
- 4.4.3.
- 4.4.4. In accordance with clause 270 of the Regulation, the provisions of this clause apply to meetings of committees of the council in the same way as they apply to meetings of the council.

4.5. Expulsion from committee meetings

4.5.1. Clause 271 of the Regulation

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

- 4.5.2. For the purposes of this clause, the general manager or, in the absence of the general manager, an employee designated by the general manager, shall be deemed to be the person authorised by council for the removal of a person from a meeting.

4.6. Misbehaviour⁷

4.6.1. Section 440F of the Act

- (1) *In this Division:*
misbehaviour of a councillor means any of the following:
 - (a) *a contravention by the councillor of this Act or the regulations,*
 - (b) *a failure by the councillor to comply with an applicable requirement of a code of conduct as required under section 440(5),*
 - (c) *an act of disorder committed by the councillor at a meeting of the council or a committee of the council but does not include a contravention of the disclosure requirements of Part 2.*
- (2) *A reference in this Division to **misbehaviour** or **an incident of misbehaviour** includes a reference to misbehaviour that consists of an omission or failure to do something.*

4.6.2. Section 440G of the Act

- (1) *A council may by resolution at a meeting formally censure a councillor for misbehaviour.*
- (2) *A formal censure resolution may not be passed except by a motion to that effect of which notice has been duly given in accordance with regulations made under section 360 and, if applicable, the council's code of meeting practice.*
- (3) *A council may pass a formal censure resolution only if it is satisfied that the councillor has misbehaved on one or more occasions.*

⁷ the process for the suspension of a councillor for misbehaviour is set out in sections 440H to 440Q of the Act.

- (4) *The council must specify in the formal censure resolution the grounds on which it is satisfied that the councillor should be censured.*
- (5) *A motion for a formal censure resolution may, without limitation, 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.*

Part 5. Council Committees

5.1. Committee of the whole

5.1.1. Section 373 of the Act

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

5.1.2. Clause 259 of the Regulation

- (1) *All the provisions of this Regulation relating to meetings of a council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provision limiting the number and duration of speeches⁸.*
- (2) *The general manager or, in the absence of the general manager, an employee of the council designated by the general manager is responsible for reporting to the council proceedings in committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.*
- (3) *The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.*

5.2. Establishment of committees

Clause 260 of the Regulation

- (1) *A council may, by resolution, establish such committees as it considers necessary.*
- (2) *A committee is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.*
- (3) *The quorum for a meeting of a committee is to be:*
 - (a) *such number of members as the council decides, or*
 - (b) *if the council has not decided a number - a majority of the members of the committee.*

5.2.1. A quorum for a committee shall be specified in the charter of that committee.

5.3. Charters, functions and powers of committees

5.3.1. Clause 261 of the Regulation

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

5.3.2. Only committees with specific delegations granted in accordance with section 377 of the Act to carry out functions on behalf of council may resolve matters. Other committees may only make recommendations for council's consideration.

5.4. Notice of committee meetings

5.4.1. Clause 262 of the Regulation

- (1) *The general manager of a council must send to each councillor, at least 3 days before each meeting of the committee, a notice specifying:*
 - (a) *the time and place at which and the date on which the meeting is to be held, and*

⁸ in accordance with 3.17.3 there is also no requirement to stand when speaking at a committee of the whole meeting.

(b) *the business proposed to be transacted at the meeting.*

- (2) *However, notice of less than 3 days may be given of a committee meeting called in an emergency.*

5.5. Non-members entitled to attend committee meetings

5.5.1. Clause 263 of the Regulation

- (1) *A councillor who is not a member of a committee of a council is entitled to attend, and to speak at, a meeting of the committee.*
- (2) *However, the councillor is not entitled:*
- (a) *to give notice of business for inclusion in the agenda for the meeting, or*
 - (b) *to move or second a motion at the meeting, or*
 - (c) *to vote at the meeting.*

5.6. Procedure in committees

5.6.1. Clause 265 of the Regulation

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

5.7. Chairperson and deputy chairperson of committees

5.7.1. Clause 267 of the Regulation

- (1) *The chairperson of each committee of the council must be:*
- (a) *the mayor, or*
 - (b) *if the mayor does not wish to be the chairperson of a committee - a member of the committee elected by the council, or*
 - (c) *if the council does not elect such a member - a member of the committee elected by the committee.*
- (2) *A council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.*
- (3) *If neither the chairperson nor the deputy chairperson of a committee of a council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.*
- (4) *The chairperson is to preside at a meeting of a committee of a council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.*

5.8. Absence from committee meetings

5.8.1. Clause 268 of the Regulation

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

5.9. Committee minutes

5.9.1. Clause 266 of the Regulation

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

5.10. Reports of committees

5.10.1. Clause 269 of the Regulation

- (1) *If in a report of a committee of the council distinct recommendations are made, the decision of the council may be made separately on each recommendation.*
- (2) *The recommendations of a committee of the council are, so far as adopted by the council, resolutions of the council.*
- (3) *If a committee of a council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the chairperson must:*
 - (a) *make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and*
 - (b) *report the resolution or recommendation to the next meeting of the council.*

5.11. Inspections by committee

- 5.11.1. Site inspections may be held only for the purpose of enabling councillors to familiarise themselves with the impact of a proposed development. All Councillors are entitled to attend such inspections.
- 5.11.2. Site inspections shall be held at a time determined by council or a committee. Councillors should wear their councillor name badge and be introduced to the applicant when attending site inspections. Minutes shall be kept recording the sites attended and the names of attendees.
- 5.11.3. An inspections committee has no delegated authority to make decisions or recommendations.

Part 6. Conflict of Interests⁹

6.1. Pecuniary interest

6.1.1. Section 442 of the Act

- (1) *For the purposes of this Chapter, a “pecuniary interest” is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.*
- (2) *A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section 448.*

6.2. Non-Pecuniary interest¹⁰

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

There are three types of non-pecuniary conflicts of interests. They are “significant”, “less than significant” and “political donations”¹¹.

6.3. Persons who have a pecuniary interest

See cl 53(1)

6.3.1. Section 443 of the Act

- (1) *For the purposes of this Chapter, 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.*
- (2) *(Repealed)*
- (3) *However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (1) (b) or (c):*
 - (a) *if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or*
 - (b) *just because the person is a member of, or is 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 a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.*

⁹ for additional information regarding conflict of interests, see the Code of Conduct and the Conflict of Interests Policy.

¹⁰ clause 7.10 Code of Conduct.

¹¹ clause 3.2.2 DLG Meetings Practice Note August 2009

- 6.3.2. The general manager has no role in determining whether or not a councillor has a pecuniary interest in a matter. The onus is on individual councillors to make such determinations. Given the complexities involved in the matter, where doubt exists individuals should seek their own legal advice. Such advice shall not be provided by staff or council's legal advisors.
- 6.3.3. Complaints regarding a failure of a councillor or staff member to disclose a pecuniary interest should be made to the Director-General of the Department of Local Government in accordance with section 460 of the Act.

6.4. Interests that do not have to be disclosed

See cl 53(2)

6.4.1. Section 448 of the Act

The following interests do not have to be disclosed for the purposes of this Chapter:

- (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 generally, or to 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 the 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 the permissible uses of:*
 - (i) *land in which the person or a person, company or body referred to in section 443 (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 section 443 (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,*
- (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.*

6.5. Disclosure and participation in meetings¹²

6.5.1. Section 451 of the Act

- (1) *A councillor or a member of a council committee who has a pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.*
- (2) *The councillor or member must not be present at, or in sight of, the meeting of the council or committee:*
 - (a) *at any time during which the matter is being considered or discussed by the council or committee, or*
 - (b) *at any time during which the council or committee is voting on any question in relation to the matter.*
- (3) *For the removal of doubt, a councillor or a member of a council committee is not prevented by this section from being present at and taking part in a meeting at which a*

¹² section 458 of the Act provides that the Minister may in certain circumstances allow a councillor or a member of a committee who has a pecuniary interest to take part in the consideration or discussion of a matter or vote on a matter.

¹² a general notice of disclosure can be made in some circumstances pursuant to section 454 of the Act which will fulfil the requirement of this subclause.

matter is being considered, or from voting on the matter, merely because the councillor or member has an interest in the matter of a kind referred to in section 448.

- (4) *Subsections (1) and (2) do not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting, if:*
- (a) *the matter is a proposal relating to:*
 - (i) *the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or*
 - (ii) *the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and*
 - (b) *the councillor made a special disclosure under this section in relation to the interest before the commencement of the meeting.*
- (5) *The special disclosure of the pecuniary interest must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and must:*
- (a) *be in the form prescribed by the regulations, and*
 - (b) *contain the information required by the regulations.*

6.5.2. Section 457 of the Act

A person does not breach section 451 or 456 if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

6.5.3. A councillor or a member of a council committee who has a non-pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the interest to the meeting as soon as practicable and

- if the non-pecuniary interest is significant or a political donation and the source of the conflict cannot be removed, the councillor or committee member must have no involvement in the matter, by absenting and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply¹³, or
- if the non-pecuniary interest is less than significant, provide an explanation of why the conflict does not require further action in the circumstances.

6.6. Disclosure by adviser

6.6.1. Section 456 of the Act

- (1) *A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given.*
- (2) *The person is not required to disclose the person's interest as an adviser.*

6.6.2. Section 457 of the Act

A person does not breach section 451 or 456 if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

¹³ see clauses 7.17 and 7.23 Code of Conduct for further explanations

6.7. Disclosures to be recorded

6.7.1. Section 453 of the Act

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

Part 7. Open Meetings

7.1. Public notice of meetings

7.1.1. Section 9 of the Act

- (1) *A council must give notice to the public of the times and places of its meetings and meetings of those of its committees of which all the members are councillors.*
- (2) *A council and each such committee must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting.*
- (2A) *In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public:*
 - (a) *the agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item), and*
 - (b) *the requirements of subsection (2) with respect to the availability of business papers do not apply to the business papers for that item of business.*
- (3) *The copies are to be available to the public as nearly as possible to the time they are available to councillors.*
- (4) *The copies are to be available free of charge.*
- (5) *A notice given under this section or a copy of an agenda or of a business paper made available under this section may in addition be given or made available in electronic form.*

7.1.2. Clause 232 of the Regulation:

- (1) *This clause prescribes the manner in which the requirements outlined in section 9(1) of the Act are to be complied with.*
- (2) *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.*
- (3) *The notice must specify the time and place of the meeting.*
- (4) *Notice of more than one meeting may be given in the same notice.*
- (5) *This clause does not apply to an extraordinary meeting of a council or committee.*

7.1.3. Copies of business papers and reports (excluding any confidential items) shall be made available to the public on council's website and during normal opening hours at the council chambers and libraries prior to each council meeting, where practicable, the day after the business papers are available to the councillors.

7.1.4. To assist members of the public at a council meeting, a summary of council meeting procedures shall be provided in the gallery with the business papers.

7.2. Attendance at meetings of the council and committees

7.2.1. Section 10 of the Act

- (1) *Except as provided by this Part:*
 - (a) *everyone is entitled to attend a meeting of the council and those of its committees of which all the members are councillors, and*
 - (b) *a council must ensure that all meetings of the council and of such committees are open to the public.*

See cl 16(3), 16(5), 52(1), 63(3), 65(2)

- (2) *However, a person (whether a councillor or another person) is not entitled to be present at a meeting of the council or of such committee if expelled from the meeting:*
 - (a) *by a resolution of the meeting, or*
 - (b) *by the person presiding at the meeting, if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.*
- (3) *A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.*

7.3. Parts of a meeting closed to the public¹⁴

7.3.1. Section 10A of the Act

- (1) *A council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises:*
 - (a) *the discussion of any of the matters listed in subclause (2), or*
 - (b) *the receipt or discussion of any of the information so listed.*
- (2) *The matters and information are the following:*
 - (a) *personnel matters concerning particular individuals (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.*
- (3) *A council, or a committee of the council of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.*
- (4) *A council, or a committee of a council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.*

¹⁴ the provisions of sections 10A and 10B of the Act are summarised in Attachment B.

7.3.2. Clause 252 of the Regulation

- (1) *A representation at a council meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.*
- (2) *That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.*

7.3.3. Clause 264 of the Regulation

- (1) *A representation at a committee meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.*
- (2) *That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.*

7.3.4. Members of the public wishing to make representations in accordance with section 10A(4) of the Act, may make such representations to the council or committee meeting in writing or verbally. Each person wishing to make verbal representations may speak do so in accordance with the procedures set out in 7.8 and Attachment C of this Code.

7.4. Further limitations to closure of parts of meetings

7.4.1. Section 10B of the Act

- (1) *A meeting is not to remain closed during the discussion of anything referred to in section 10A(2):*
 - (a) *except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and*
 - (b) *if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret - unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.*
- (2) *A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) unless the advice concerns legal matters that:*
 - (a) *are substantial issues relating to a matter in which the council or committee is involved, and*
 - (b) *are clearly identified in the advice, and*
 - (c) *are fully discussed in that advice.*
- (3) *If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)).*
- (4) *For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:*
 - (a) *a person may misinterpret or misunderstand the discussion, or*
 - (b) *the discussion of the matter may:*

- (i) *cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or*
 - (ii) *cause a loss of confidence in the council or committee.*
- (5) *In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must have regard to any relevant guidelines issued by the Director-General.*

7.5. Notice of closure not required in urgent cases

7.5.1. Section 10C of the Act

Part of a meeting of a council, or of a committee of the council of which all the members are councillors, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting as a matter that is likely to be considered when the meeting is closed, but only if:

- (a) *it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in section 10A(2), and*
- (b) *the council or committee, after considering any representations made under section 10A(4), resolves that further discussion of the matter:*
 - (i) *should not be deferred (because of the urgency of the matter), and*
 - (ii) *should take place in a part of the meeting that is closed to the public.*

7.6. Specification of grounds for closing part of a meeting

7.6.1. Section 10D of the Act

- (1) *The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.*
- (2) *The grounds must specify the following:*
 - (a) *the relevant provision of section 10A(2),*
 - (b) *the matter that is to be discussed during the closed part of the meeting,*
 - (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.*

7.7. Public access to correspondence and reports¹⁵

7.7.1. Section 11 of the Act

- (1) *A council and a committee of which all the members are councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.*
- (2) *This section does not apply if the correspondence or reports:*
 - (a) *relate to a matter that was received or discussed, or*

¹⁵ for access to publicly available documents generally see the Government Information (Public Access) Act provisions. For inspection of minutes of meetings see also 8.2 of this Code.

(b) were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.

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

7.8. Addressing council and committee meetings

- 7.8.1. Members of the public shall have the opportunity to address a meeting on any matter of a general nature or interest to council and the community as well as any item on the business paper, with the exception of petitions, business without notice and questions without notice. This right to address includes representations by members of the public as to whether any part of the meeting should be closed to the public.
- 7.8.2. The number of speakers shall generally be limited to a maximum of two (2) for and two (2) against a matter before the meeting. On occasions where there are more than two (2) speakers both for and against a matter, the number of speakers shall be limited to equal numbers for and against the matter. On occasions where there is more than one (1) speaker for or against an item, new speakers shall be requested to limit their address to new material. The chairperson shall have the right to so limit their addresses. The number of speakers is limited to a maximum of three (3), on any one topic in general address to Council.
- 7.8.3. Council shall have procedures for addresses to meetings¹⁶. A summary of the procedures shall be provided to persons at the time of submitting their name to address the meeting.

¹⁶ the current procedures for addressing a meeting are set out in Attachment C.

Part 8. Miscellaneous

8.1. Disclosure and misuse of information

8.1.1. Section 664 of the Act

- (1) *A person must not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:*
- (a) *with the consent of the person from whom the information was obtained, or*
 - (b) *in connection with the administration or execution of this Act, or*
 - (c) *for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings, or*
 - (d) *in accordance with a requirement imposed under the Ombudsman Act 1974 or the Government Information (Public Access) Act 2009, or*
 - (e) *with other lawful excuse.*
- (1A) *In particular, if part of a meeting of a council or a committee of a council is closed to the public in accordance with section 10A(1), a person must not, without the authority of the council or the committee, disclose, (otherwise than to the council or a councillor of the council), information with respect to the discussion at, or the business of, the meeting.*
- (1B) *Subsection (1A) does not apply to:*
- (a) *the report of a committee of a council after it has been presented to the council, or*
 - (b) *disclosure made in any of the circumstances referred to in (1)(a)-(e), or*
 - (c) *disclosure made in circumstances prescribed by the regulations, or*
 - (d) *any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with the provisions of the Government Information (Public Access) Act 2009.*
- (2) *A person acting in the administration or execution of this Act must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known, for the purpose of gaining either directly or indirectly a financial advantage for the person, the person's spouse or de facto partner or a relative of the person.*
- (3) *A person acting in the administration or execution of this Act, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person, influence:*
- (a) *the determination of an application for an approval, or*
 - (b) *the giving of an order.*
- Maximum penalty: 50 penalty units.*

8.1.2. Clause 412 of the Regulation

For the purposes of section 664(1B)(c) of the Act, any disclosure made with the intention of enabling the Minister or the Director-General to properly exercise the functions conferred or imposed on them by or under the Act is a prescribed circumstance.

8.2. Inspection of minutes

8.2.1. Clause 272 of the Regulation

- (1) *An inspection of the minutes of a council or committee of a council is to be carried out under the supervision of the general manager or an employee of the council designated by the general manager to supervise inspections of those minutes.*
- (2) *The general manager must ensure that the minutes of the council and any minutes of a committee of the council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.*

8.3. Access to information and records by councillors

- 8.3.1. Councillors shall have access to council documents in accordance with the *Councillor Access to Information and Interaction with Staff Policy* and the provisions of the Government Information (Public Access) Act 2009. However, nothing in this Code derogates from the common law right of councillors to generally inspect any record of the council relating to any business before the council, except where the councillor requesting inspection has, in the opinion of the general manager, a pecuniary interest in the matter.

8.4. Recording of meetings

8.4.1. Clause 273 of the Regulation

- (1) *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.*
- (2) *A person may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of a council or a committee for using or having used a tape recorder in contravention of this clause.*
- (3) *If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.*
- (4) *In this clause, **tape recorder** includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.*

- 8.4.2. As an aid to the preparation of the minutes of a meeting, a recording of all ordinary and extraordinary council meetings shall be made with the exception of any matters dealt with in confidential session. Prior notice shall be given to anyone addressing the meeting that they are being recorded.

8.5. Certain circumstances do not invalidate council decisions

8.5.1. Section 374 of the Act

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

- (a) *a vacancy in a civic office, or*
- (b) *a failure to give notice of the meeting to any councillor or committee member, or*
- (c) *any defect in the election or appointment of a councillor or committee member, or*
- (d) *a failure of a councillor or a committee member to disclose a pecuniary interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or a committee meeting in accordance with section 451, or*

(e) a failure to comply with the code of meeting practice.

8.6. Attendance of general manager at meetings

8.6.1. Section 376 of the Act

- (1) *The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all the members are councillors.*
- (2) *The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.*
- (3) *However, the general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of the employment of the general manager.*

8.7. Mobile telephones

8.7.1. No person shall answer or otherwise use a mobile telephone during a council or committee meeting, unless permission is granted by the chairperson.

8.7.2. All mobile telephones shall be switched off or put on silent mode during every council and committee meeting, unless permission is otherwise granted by the chairperson.

8.8. Other matters

8.8.1. A ruling or interpretation not covered by the Act, the Regulation or this Code shall be determined by resolution of the council.

8.9. Amendment of Code

8.9.1. This Code may be amended in accordance with the provisions of the Act. However, any amendments to the Act or the Regulation will immediately apply and override this Code to the extent of any inconsistency. Such amendments will be inserted into this Code without the need for further public notification.

Part 9. Associated Documents

9.1. Codes and policies

Code of Conduct

Conflict of Interests Policy

Councillor Access to Information and Interaction with Staff Policy

9.2. External references

Department of Local Government, Closed Council Meetings, Circular no. 07-08, 11 April 2007

Department of Local Government, Guidelines for the Model Code of Conduct for Local Councils in NSW, October 2008

Department of Premier and Cabinet, Division of Local Government, Meetings Practice Note no. 16, August 2009

Department of Local Government, Open Meetings Guidelines, July 1998

ATTACHMENT A

Order of Business for Council Meetings

1. Prayer and the following acknowledgement

“On behalf of Council I recognise the traditional custodians of the land, the Guringai people, on whose land we stand”

2. Apologies

3. Declaration of interests

4. Reports to be considered in closed meeting

5. Addresses to Council

6. Documents circulated to Councillors

7. Confirmation of minutes

8. Minutes from the Mayor

9. Petitions

10. Reports from Standing Committees

11. General Business

Mayor to invite Councillors to nominate any items on the Agenda that they wish to have a site inspection.

Mayor to invite Councillors to nominate any items on the Agenda that they wish adopt in accordance with the officer's recommendation allowing for minor changes without debate.

12. Extra reports circulated at meeting

13. Motions of which due notice has been given

14. Business without notice – matters of great urgency

15. Questions without Notice

16. Inspections Committee – setting of date, time and rendezvous

17. Confidential business – to be dealt with in closed session

ATTACHMENT B

Closed Meetings – Summary of Legislation

A meeting may go into closed session for receipt or discussion of any of the following matters, **for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security:**

Matter - Section 10A	Restrictions - Section 10B
(2)(a) personnel matters concerning particular individuals (other than Councillors)	
(2)(b) personal hardship of any resident or ratepayer	
(2)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest
(2)(d) commercial information of a confidential nature that would, if disclosed: <ul style="list-style-type: none"> (i) prejudice the commercial position of the person who supplied it, or (ii) confer a commercial advantage on a competitor of council, or (iii) reveal a trade secret 	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest (except for trade secrets)
(2)(e) information that would, if disclosed, prejudice the maintenance of law	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest
(2)(f) matters affecting the security of the council, councillors, council staff or council property	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest
(2)(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest (2) advice must concern legal matters that: <ul style="list-style-type: none"> (a) are substantial issues relating to a matter in which the council is involved (b) are clearly identified in the advice, and (c) are fully discussed in that advice
(2)(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest
(3) so much of its meeting as comprises a motion to close another part of the meeting to the public	(3) must not include any consideration of the matter or information to be discussed

ATTACHMENT C

Procedures for Addressing a Meeting

1. Speakers name, address and subject must be registered with staff prior to the meeting. People who have not registered prior to the commencement of the meeting will not be permitted to address. No matter will be delayed due to a speaker not being present, nor will Council inhibit its right to alter the order of dealing with the agenda items.
2. A list of speakers is given to the Mayor/Chairperson as soon as possible following commencement of the meeting.
3. Members of public whose names do not appear on the list will not be allowed to address Council / Committee.
4. Speakers are limited to three minutes each, with a warning bell at 2 minutes 30 seconds. All addresses to be taped and no extensions of time will be granted.
5. Where the matter is of general interest or not included in the Business Paper, the speakers address the Council at the commencement of the meeting.
6. Where the matter is included in the Business Paper, speakers to address the Council immediately prior to discussion of that item.
7. If the matter under discussion is listed on the Committee Business Paper, the speaker should address the Committee immediately prior to the item under discussion.
8. Speakers are encouraged to leave notes of their speech for follow-up or review action.
9. Speakers on Mayoral Minutes shall address Council after the Mayor has presented and spoken on his/her Minute.
10. Speakers on Notices of Motion shall address Council after the Councillor concerned has moved and had seconded his/her Notice of Motion.
11. Questions of speakers who address Council be permitted, with the consent of the Chairperson, for the purpose of points of clarification only. Under no circumstances will the matter be debated with the speaker.

ATTACHMENT D

Local Government (General) Regulation 2005

Schedule 3A Form of special disclosure of pecuniary interest

(Clause 195A)

Local Government Act 1993

Form of Special Disclosure of Pecuniary Interest

1 The particulars of this form are to be written in block letters or typed.

2 If any space is insufficient in this form for all the particulars required to complete it, an appendix is to be attached for that purpose which is properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under sections 451 (4) and (5) of the *Local Government Act 1993*. You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred by the Director-General to the Local Government Pecuniary Interest and Disciplinary Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting in respect of which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests

by *[full name of councillor]*

in the matter of *[insert name of environmental planning instrument]*

which is to be considered at a meeting of the *[name of council or council committee (as the case requires)]*

to be held on the day of 20 .

Pecuniary interest	
Address of land in which councillor or an associated person, company or body has a proprietary interest (<i>the identified land</i>) ⁱ	
Relationship of identified land to councillor [Tick or cross one box.]	<input type="checkbox"/> Councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> Associated person of councillor has interest in the land. <input type="checkbox"/> Associated company or body of councillor has interest in the land.
Matter giving rise to pecuniary interest ⁱⁱ	
Nature of land that is subject to a change in zone/planning control by proposed LEP (<i>the subject land</i>) ⁱⁱⁱ [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor [Insert one of the following: “Appreciable financial gain” or “Appreciable financial loss”]	

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

ⁱ Section 443 (1) of the *Local Government Act 1993* provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative⁴ or because your business partner or employer has a pecuniary interest. You may also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

ⁱⁱ Section 442 of the *Local Government Act 1993* provides that 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. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section 448 of that Act (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).

ⁱⁱⁱ A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in section 443 (1) (b) or (c) of the *Local Government Act 1993* has a proprietary interest—see section 448 (g) (ii) of the *Local Government Act 1993*.

⁴ **Relative** is defined by the *Local Government Act 1993* as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.