



# **Code of Meeting Practice**

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## INTRODUCTION

The Council meeting is the prime mechanism available to Local Government to exercise its responsibilities to its community as a democratic form of government.

It is at Council meetings that decisions are made that provide the organisational direction for the social development, economic development and environmental protection of the Wingecarribee Shire. These decisions also set the standards and priorities and generally provide the framework for the delivery of services.

There is no doubt that much of the work required to bring about these things is done outside the meeting in researching and consulting the issues and their ramifications. However, it is at the Council meeting that the decisions are made in an open, public forum. The democratic processes of debate at these meetings allow the voicing of a wide range of views prior to the Council's commitment to a final decision. It is therefore imperative that an appropriate set of guidelines or framework be available to offer direction to the processes of decision making. Those guidelines are contained within this Code of Meeting Practice.

The Code has been developed to provide a framework of legislative and agreed practices to ensure that meetings of this Council and its committees achieve:-

- Effective and equitable decision making
- Orderly and balanced debate
- Access and understanding by the Citizens of Wingecarribee Shire.

The Code has also been developed to provide meeting practices that:-

- Allow Councillors to express their opinions and to attempt to persuade their colleagues of the merits of that opinion.
- Do not permit the thrust of decision making to be overcome in legalistic argument.

It is essential that not only Councillors and staff have these guidelines to direct them in the decision making processes, but also our community to be able to have confidence in those processes to provide equity and fairness in the decision. It is, therefore, a fundamental principle of this Code that openness and consultation are encouraged at every opportunity.

The Local Government Act, 1993, requires that Council prepare and utilise this Code (Section 360) and also requires that this Code be consistent with the Local Government (General) Regulations 2005 made under the Act. For that reason, the exact wording of the Regulation has been in developing the components of this Code. Bracketed section or clause numbers in the Code provide a reference to the Act or Regulation. Clauses presented in italics represent matters considered to be "local rules" (wsc) not specifically provided, nor inconsistent with, the Act or Regulations.

Such local rules have been incorporated to provide more specific details for the benefit of the public, to remove uncertainties and provide interpretation where deemed necessary to assist in the understanding and conduct of meetings.

At times it may be necessary to refer to an Authority in more detail than is possible in this Code or the Regulations. In that case, the Authority will be "Guide for Meetings and Organisations" by N E Renton (Law Book Company) the current edition is available to Councillors at the Civic Centre and for the public in the libraries at Bowral, Moss Vale and Mittagong.

# 1 PRELIMINARY

## 1.1 Citation

This Code may be cited as the "Wingecarribee Council Code of Meeting Practice" and applies to all meetings of Council and its Standing Committees.

## 1.2 Definitions

In this Code:

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

**chairperson**,

- (a) in relation to a meeting of the Council - means the person presiding at the meeting as provided by Item 3.2 of this Code; and
- (b) in relation to a meeting of a committee of Council - means the person presiding at the meeting as provided by Item 5.8 of this Code;

**councillors** are elected members of Wingecarribee Council;

**committee** means a committee established under Item 3.26.1 of this Code or the Council when it has resolved itself into Open or Closed Committee;

**meeting** shall mean any meeting of the Council or any committee of the Council that is comprised exclusively of Wingecarribee Councillors;

**record** means a document (including any written or printed material) or object (including a facsimile sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting of other pictorial or graphic work) that is or has been made or received in the course of official duties by a Councillor or an employee of the Council and, in particular, includes the minutes of meetings of the Council or of a committee of the Council. This definition does not include correspondence forwarded direct to a Councillor which has not been registered in Council's Records system.

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

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

**the Act** means the Local Government Act 1993;

**the Code** means the Wingecarribee Council Code of Meeting Practice; and

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

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.

### **1.3 Act and Regulation**

- 1.3.1. This Code is made pursuant to section 360(2) of the Local Government Act 1993.
- 1.3.2. It incorporates relevant positions of the Local Government (General) Regulations 2005 and the Act.
- 1.3.3. In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.

### **1.4 Ethics**

Council debate is conducted on the presumption that it is in the best interests of the community for information and views to be freely exchanged. Where conflicting views are debated, it should be done in a way that respects the rights of individuals (Councillors, staff and members of the community) to hold differing views and such debate should focus on the issues and not vilify individuals for holding or arguing such views.

Council recognises that experience over many years has resulted in the general acceptance of a number of principles designed to facilitate proceedings at meetings and a number of rules and precedents including "rules of debate" have evolved. The procedures covered by these principles and rules:

- (a) enable each person to express an opinion within necessary limits of time;
- (b) provide protection to a minority;
- (c) preserve decorum in behaviour;
- (d) assist the business to be transacted in an orderly manner;
- (e) aim at confining discussion to a single issue.

Council acknowledges the good name and respect for the Council depends to a large degree on the manner in which it conducts its business in Council. Councillors agree it is essential that appropriate standards of debate are maintained.

Councillors should refrain from making statements or acting in a way which criticises and casts aspersions on fellow Councillors, members of the public and staff.

For effective and efficient operation of the Council, it is essential there be co-operation and goodwill and mutual respect between Council and its staff. Councillors will refrain from using their positions as elected members to intimidate staff or criticise or in other ways denigrate members of the public or staff as this is an abuse of authority and privilege. Public criticism of staff affects the morale of the whole organisation.

Councillors, staff, delegates and members of the public who address Council meetings are required to treat those in attendance fairly and equitably with respect and courtesy. (Disorder at a Council meeting may be dealt with under Sections 4.2, 4.3 and 4.4 of this Code of Meeting Practice.)

Council recognises staff are acting in accordance with its directives. Council will ensure allegations are not made about staff in a manner which misrepresents, maligns and/or denigrates them when they have no redress. Staff problems are to be dealt with through the General Manager or the provision of the Protected Disclosures Act.

### **1.5 Notes to Text**

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

## 2 CONVENING OF, AND ATTENDANCE AT, COUNCIL MEETINGS

### 2.1 *Frequency of Meetings of the Council*

- 2.1.1. The Council is required to meet at least ten times each year, each time in a different month. (s.365 LGA)
- 2.1.2. The Council shall, by resolution, set the time, date and place of ordinary meetings of the Council. (wsc)
- 2.1.3 Meeting times of the Council will be as follows:

3.30 pm	Open Council (Councillors take the Chair on a rotational basis)
5.00 pm	Mayor resumes the Chair for Council
5.30 pm	Questions from the Public
7.30 pm	Meeting Concludes – <i>Note:</i> If unfinished business remains in the agenda, the meeting is adjourned to the next Wednesday evening at 6.00pm to complete the residual business of Council or Council may resolve that the remaining items are deferred and referred to the next Ordinary meeting of Council.

Extension of time: Council may extend the meeting by a further 30 minutes by Resolution of Council from 7.30pm to 8.00pm.

### 2.2 *Extraordinary meetings*

- 2.2.1 The Mayor may call extraordinary meetings of the Council. (wsc).
- 2.2.2 If the Mayor receives a request in writing signed by at least two Councillors, the Mayor must call an extraordinary meeting of the Council to be held as soon as practicable but in any event within fourteen (14) days after the receipt of the request. (s.366 LGA)
- 2.2.3 [Extraordinary Meeting]: Notwithstanding the above, the Mayor may, if he/she is of the opinion that a situation exists which warrants an extraordinary meeting of the Council being held at short notice, call such a meeting for the specific purpose of resolving such situation. The notice of the meeting may be given either verbally or in writing as the circumstances warrant and the period of notice to be given shall be entirely at the Mayor's discretion. (wsc)

### 2.3 *Notice of Meetings*

- 2.3.1 **[Three Days' Notice]** The General Manager of the Council must send to each Councillor, at least three days, before each meeting of the Council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting. (s.367 LGA)
- 2.3.2. **[Emergency Meetings]** Notice of less than 3 days may be given of an extraordinary meeting called in an emergency. (s.367 LGA)

- 2.3.3 **[Electronic Form]** 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 paper in that form. (s.367 LGA)

## **2.4 Certain Circumstances Do Not Invalidate Council Decisions**

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

- (a) a vacancy in a civic office; or
- (b) a failure to give notice of the meeting to any Councillor or Committee Member; or
- (c) any defect in the election or appointment of a Councillor or Committee Member; or
- (d) a failure of a councillor or a committee member to disclose a pecuniary interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with section 451 of the Act, or
- (e) a failure to comply with the Code of Meeting Practice. (wsc)

## **2.5 Quorum**

The quorum for a meeting of the Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office. (s.368 LGA)

## **2.6 What happens when a quorum is not present**

2.6.1. A meeting of the Council must be adjourned if a quorum is not present:

- (a) within half an hour after the time designated for the holding of the meeting; or
- (b) at any time during the meeting. (Part 10, Clause 233 LG [General] Regs 2005)

2.6.2. 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. (Part 10, Clause 233 LG [General] Regs 2005)

2.6.3. The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the Councillors present. (Part 10, Clause 233 LG [General] Regs 2005)

## **2.7 Presence at Council Meetings**

2.7.1. **[Councillor Participation]** A Councillor cannot participate in a meeting of a Council unless personally present at the meeting. (Part 10, Clause 235 LG [General] Regs 2005)

## **2.8 Attendance of General Manager at Meetings**

- 2.8.1. **[Cannot Vote]** 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. (s.376 LGA)
- 2.8.2. **[Can Vote]** 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. (s.376 LGA)
- 2.8.3. **[Exclusion from Meeting]** 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. (s.376 LGA)

## **2.9 Delegation of Function**

- 2.9.1. Other Council Officers shall attend Council and Committee meetings as Council and the respective Committees shall determine appropriate from time to time in consultation with the General Manager. (wsc)
- 2.9.2. The role of staff attending will be to offer advice and to answer questions with their individual fields of expertise and experience. Generally, unless outlined elsewhere, Council staff are not permitted to vote, or take part in debate (unless specifically invited by the Chairperson). It is not appropriate for Council Officers to offer opinion not related to their areas of expertise (wsc)

### 3 PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

#### 3.1 *Who Presides at Meetings of the Council*

- 3.1.1. **[Mayor or Deputy]** 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. (s.369 LGA)
- 3.1.2. **[Absence]** 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. (s.369 LGA)

#### 3.2 *Councillor to be Elected to Preside at Certain Meetings*

- 3.2.1. If no Chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a Chairperson to preside at the meeting. (Part 10, Clause 236 LG [General] Regs 2005)
- 3.2.2. 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. (Part 10, Clause 233 LG [General] Regs 2005)
- 3.2.3. 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. (Part 10, Clause 233 LG [General] Regs 2005)
- 3.2.4. 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. (Part 10, Clause 233 LG [General] Regs 2005)
- 3.2.5. The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson. (Part 10, Clause 233 LG [General] Regs 2005)

#### 3.3 *Chairperson to Have Precedence*

- 3.3.1. When the Chairperson rises during a meeting of the 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. (Part 10, Clause 236 LG [General] Regs 2005)

### **3.4 Chairperson's Duty with Respect to Motions**

- 3.4.1. 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. (Part 10, Clause 238 LG [General] Regs 2005)
- 3.4.2. The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful. (Part 10, Clause 238 LG [General] Regs 2005)
- 3.4.3. Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected. (Part 10, Clause 238 LG [General] Regs 2005)

### **3.5 Minutes**

- 3.5.1. The Council must ensure that full and accurate minutes are kept of proceedings of a meeting of the Council. (s.375 LGA)
  - (a) *The correctness of the minutes of every preceding meeting, including extraordinary meeting, not previously confirmed must be dealt with at every ordinary meeting of the Council, in order that such minutes may be confirmed. (wsc)*
- 3.5.2. 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. (s.375 LGA)
  - (a) *The signature(s) and related declaration referred to in Clause 15(5) need only be included on the last page only of the minutes of each meeting. (wsc)*

### **3.6 Disclosures to be Recorded**

- 3.6.1. A disclosure made at a meeting of a Council or Council committee must be recorded in the minutes of the meeting. (S.453 LGA)

### **3.7 Matters to Be Included in Minutes of Council Meetings**

- 3.7.1 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**. (Clause 27 Reg)
  - (d) The reasons a matter of great urgency has been accepted by the meeting (see also 3.10.3(b)).

### **3.8 Order of Business**

- 3.8.1 At a meeting of a council (other than an extraordinary meeting), the general order of business is (except as provided by the Regulation) as fixed by the council's Code of Meeting Practice or (if the Council does not have a Code of Meeting Practice or its code of meeting practice does not fix the general order of business) as fixed by resolution of the council. (Part 10, Clause 239 LG [General] Regs 2005)

- 3.8.2 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. (Part 10, Clause 239 LG [General] Regs 2005)
- 3.8.3 Despite Clause 23 of the Act, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put. (Part 10, Clause 239 LG [General] Regs 2005)

### **3.9 Agenda & Business Papers for Council Meetings**

- 3.9.1 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 Clause 3.9.2 (below), any business of which due notice has been given. (Pt.3. Clause 13 Reg)
- 3.9.2 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. (Part 10, Clause 240 LG [General] Regs 2005)
- 3.9.3 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. (Part 10, Clause 240 LG [General] Regs 2005)
- 3.9.4 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. (Part 10, Clause 240 LG [General] Regs 2005)
- 3.9.5 The deadline for lodging correspondence, reports and questions for inclusion on the business paper for consideration at any meeting of the Council, shall be ten days prior to the meeting. (wsc)
- 3.9.6 The deadline for lodging Notices of Motion shall be seven days prior to the meeting. (wsc)
- 3.9.7 Nothing in this clause limits the powers of the Chairperson under Clause 16. (Part 10, Clause 240 LG [General] Regs 2005)

### **3.10 Giving Notice of Business**

- 3.10.1 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. (Part 10, Clause 241 LG [General] Regs 2005)

3.10.2 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 9(1); or
- (c) is a matter or topic put to the meeting by the Chairperson in accordance with clause 16; or
- (d) is a motion for the adoption of recommendations of a committee of the Council. (Part 10, Clause 241 LG [General] Regs 2005)

3.10.3 Despite subclause (1), business may be transacted at a meeting of the Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:

- (a) a motion is passed to have the business transacted at the meeting; and
- (b) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency. To establish great urgency it should be clearly demonstrated that Council needs to make a decision on the matter before the following Council Meeting.

Such a motion can be moved without notice. (Part 10, Clause 241 LG [General] Regs 2005)

- (c) or at the Mayor's discretion (wsc).

Such a motion can be moved without notice. . (Part 10, Clause 241 LG [General] Regs 2005)

3.10.4 Despite Clause 23 of the Regulation, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put. . (Part 10, Clause 241 LG [General] Regs 2005)

### **3.11 Business Paper for Extraordinary Meetings**

3.11.1 The General Manager must ensure that the business paper for an extraordinary meeting of the Council deals only with the matters stated in the notice of the meeting. (Part 10, Clause 242 LG [General] Regs 2005)

3.11.2 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
- (b) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency. To establish great urgency it should be clearly demonstrated that Council needs to make a decision on the matter before the following Council meeting (Part 10, Clause 242 LG [General] Regs 2005)

Such a motion can be moved without notice but only after the business notified in the business paper for the meeting has been disposed of. (Part 10, Clause 242 LG [General] Regs 2005)

3.11.3 Despite clause (23), only the mover of a motion referred to in subclause (2) can speak to the motion before it is put. (Pt.3, Clause 15 Reg)

### **3.12 Official Minutes**

- 3.12.1 If the Mayor (or Deputy Mayor if acting for the Mayor) is the Chairperson at a meeting of a Council, the Chairperson is, by minute signed by the Chairperson, entitled to put to the meeting, without notice, any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge. (Part 10, Clause 243 LG [General] Regs 2005)
- 3.12.2 Such a minute, when put to the meeting, takes precedence over all business on the Council's business paper for the meeting. The Chairperson (but only if the Chairperson is the Mayor, may move the adoption of the minute without the motion being seconded. (Part 10, Clause 243 LG [General] Regs 2005)
- 3.12.3 A recommendation made in a minute of the Chairperson (being the Mayor, or Deputy Mayor, if acting for the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council. (Part 10, Clause 243 LG [General] Regs 2005)

### **3.13 Report of a Departmental Representative to be Tabled at Council Meeting**

- 3.13.1 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. (Part 10, Clause 244 LG [General] Regs 2005)

### **3.14 Notice of Motion - Absence of Mover**

- 3.14.1 In the absence of a Councillor who has placed a notice of motion on the business paper for a meeting of the Council:
- (a) any other Councillor may move the motion at the meeting; or
  - (b) the Chairperson may defer the motion until the next meeting of the Council at which the motion can be considered. (Part 10, Clause 245 LG [General] Regs 2005)

### **3.15 Motions to be Seconded**

- 3.15.1 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). (Part 10, Clause 246 LG [General] Regs 2005)

### **3.16 How Subsequent Amendments May be Moved**

- 3.16.1 If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the Council at any one time. (Part 10, Clause 247 LG [General] Regs 2005)

It is permissible during the debate on a Motion or amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment before the meeting is dealt with. (wsc)

### **3.17 Motions of Dissent**

- 3.17.1 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 (Part 10, Clause 248 LG [General] Regs 2005)
- 3.17.2 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 business paper and proceed with it in due course. (Part 10, Clause 248 LG [General] Regs 2005)
- 3.17.3 Despite clause 23, 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. (Part 10, Clause 248 LG [General] Regs 2005)

### **3.18 Questions May be Put to Councillors and Council Employees**

- 3.18.1 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. (Part 10, Clause 249 LG [General] Regs 2005)
- 3.18.2 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. (Part 10, Clause 249 LG [General] Regs 2005)
- 3.18.3 The Councillor must put every such question directly, succinctly and without argument. (Part 10, Clause 249 LG [General] Regs 2005)
- 3.18.4 The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this clause. (Part 10, Clause 249 LG [General] Regs 2005)

### **3.19 Mode of Address**

- 3.19.1 Councillors shall at all times address other Councillors by their official designation, as Mayor or Councillor, as the case may be; and with the exception of the Chairperson, or any Councillor prevented by physical infirmity, shall stand when speaking. (wsc)
- 3.19.2 No Councillor shall use offensive or unbecoming words in reference to any Councillor or make imputations of improper motives or personal reflections on Councillors. (wsc)

### **3.20 Limitation as to Number of Speeches**

- 3.20.1 A Councillor who, during a debate at a meeting of the Council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment. (Part 10, Clause 250 LG [General] Regs 2005)
- 3.20.2 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. (Part 10, Clause 250 LG [General] Regs 2005)
- 3.20.3 A Councillor must not, without consent of the Council, speak more than once on a motion or an amendment, or for longer than five 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 five minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding. (Part 10, Clause 250 LG [General] Regs 2005)
- 3.20.4 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. (Part 10, Clause 250 LG [General] Regs 2005)
- 3.20.5 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. (Part 10, Clause 250 LG [General] Regs 2005)
- 3.20.6 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). (Part 10, Clause 250 LG [General] Regs 2005)
- 3.20.7 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. (Part 10, Clause 250 LG [General] Regs 2005)

### **3.21 Motions Put Without Debate**

- 3.21.1 Provided there is no objection from any Councillor present, any motion or recommendation before the Council may be put to the vote without discussions or debate. (wsc)

### 3.22 Voting at Council Meetings

- 3.22.1 A Councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion. (Part 10, Clause 251 LG [General] Regs 2005)
- 3.22.2 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. (Part 10, Clause 251 LG [General] Regs 2005)
- 3.22.3 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. (Part 10, Clause 251 LG [General] Regs 2005)
- 3.22.4 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. (Part 10, Clause 251 LG [General] Regs 2005)
- 3.22.5 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. (Part 10, Clause 251 LG [General] Regs 2005)
- 3.22.6 Each Councillor is entitled to one vote. (wsc)
- 3.22.7 However, the person presiding at a meeting of the Council has, in the event of an equality of votes, a second or casting vote (wsc).
- 3.22.8 A Councillor may call for a "show of hands" and, subject to the concurrence of the Mayor, Councillors will raise their hands, indicate their support for or against a motion and the names will be recorded of those voting 'for' and those voting 'against' a motion. (wsc)

**NOTE:** *The Local Government (Elections) Regulations 1993 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 124 and clause 3 of Schedule 3). Clause 3 of Schedule 3 also makes it clear that "ballot" has its normal meaning of secret ballot.*

### 3.23 What Constitutes a Decision of the Council

- 3.23.1 A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council. (s.371 LGA)

### **3.24 Rescinding or Altering Resolutions**

- 3.24.1 **[Motion]** A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with the Council's Code of Meeting Practice. (s.372 LGA)
- 3.24.2 *If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice must also be given of the proposed further motion. (wsc)*
- 3.24.3 **[Resolution]** If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with. (s.372 LGA)
- 3.24.4 The Council shall decide when or at which subsequent meeting the notice of motion will be considered and failing any such decision it will be dealt with at the next Ordinary Meeting of Council. (wsc)
- 3.24.5 At any time after the meeting at which the resolution is carried, no further action to carry the resolution into effect may be taken after receipt of the notice of motion until the motion of rescission has been dealt with. (wsc)
- 3.24.6 In the case of a motion of alteration, subclause (3) applies only to the extent that the resolution of Council would be affected by the motion of alteration, if it is passed. (wsc)
- 3.24.7 If a motion has been negated by the Council, a motion having the same effect must not be considered unless notice of it has duly been given in accordance with the Council's Code of Meeting Practice. (s.372 LGA)
- 3.24.8 **[Signature Requirement]** A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council, must be signed by three Councillors if less than three months has elapsed since the resolution was passed, or the motion was negated, as the case may be. (s.372 LGA)
- 3.24.9 **[No Similar Motion]** 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 three months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same. (s.372 LGA)
- 3.24.10 **[Report]** 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. (s.372 LGA)
- 3.24.11 The provisions of this section concerning negative motions do not apply to motions of adjournment. (s.372 LGA)

### **3.25 Motions of Adjournment**

- 3.25.1 The provisions of this section concerning negatived motions do not apply to motions of adjournment. (wsc)
- 3.25.2 Debate shall not be permitted on any motion of adjournment of a meeting of the Council. (wsc)
- 3.25.3 If a motion for adjournment is negatived, the business of the meeting shall proceed, and it shall not be in order for any Councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being lost. (wsc)
- 3.25.4 Debate shall not be permitted on any motion of adjournment of a meeting of the Council meeting; however, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the Chairperson shall make a determination with respect to whichever of these has not been specified. (wsc)

### **3.26 Committee of council**

- 3.26.1 A council may resolve itself into a committee to consider any matter before the council. (s.373 LGA)

### **3.27 Council Seal**

- 3.27.1 The seal of a Council must be kept by the Mayor or the General Manager, as the Council determines. (Part 13, Clause 400 LG [General] Regs 2005)
- 3.27.2 The seal of a Council may be affixed to a document only in the presence of:
- (a) the Mayor and the General Manager; or
  - (b) at least 1 Councillor (other than the Mayor) and the general manager; or
  - (c) the Mayor and at least 1 other Councillor; or
  - (d) at least 2 Councillors other than the Mayor. (Part 13, Clause 400 LG [General] Regs 2005)
- 3.27.3 The affixing of a Council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence. (Part 13, Clause 400 LG [General] Regs 2005)
- 3.27.4 the seal of a Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved (by resolution specifically referring to the document) that the seal be so affixed. (Part 13, Clause 400 LG [General] Regs 2005)
- 3.27.5 For the purposes of subclause (4), a document in the nature of a reference or certificate of service for an employee of the Council does not relate to the business of the Council. (Part 13, Clause 400 LG [General] Regs 2005)

### **3.28 Time for End of Meetings**

- 3.28.1 Wednesday Ordinary Council meetings which commence at 3.30pm or thereabouts, be closed no later than 8.00pm.

## 4 KEEPING ORDER AT MEETINGS

### 4.1 Questions of Order

- 4.1.1 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. (Part 10, Clause 255 LG [General] Regs 2005)
- 4.1.2 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. (Part 10, Clause 255 LG [General] Regs 2005)
- 4.1.3 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. (Part 10, Clause 255 LG [General] Regs 2005)
- 4.1.4 The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed. (Part 10, Clause 255 LG [General] Regs 2005)

### 4.2 Acts of Disorder

- 4.2.1 A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a committee of the Council: (Part 10, Clause 256 LG [General] Regs 2005)
  - (a) contravenes the Act, or any regulation in force under the Act or this Code; or
  - (b) assaults or threatens to assault another Councillor or person present at the meeting; 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. (Part 10, Clause 256 LG [General] Regs 2005)
- 4.2.2 The Chairperson may require a Councillor: (Part 10, Clause 256 LG [General] Regs 2005)
  - (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). (Part 10, Clause 256 LG [General] Regs 2005)

- 4.2.3 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 (4.2.2). 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. (Part 10, Clause 256 LG [General] Regs 2005)

### **4.3 How Disorder at a Meeting May be Dealt With**

- 4.3.1 If disorder occurs at a meeting of the Council the Chairperson may adjourn the meeting for a period of not more than fifteen 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(Part 10, Clause 257 LG [General] Regs 2005)
- 4.3.2 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. (Part 10, Clause 257 LG [General] Regs 2005)

### **4.4 Power to Remove Persons From Meeting After Expulsion**

- 4.4.1 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. (Part 10, Clause 258 LG [General] Regs 2005)

## **5 COUNCIL COMMITTEES**

### **5.1 Open Council**

- 5.1.1 The Council may resolve itself into Open Council to consider any matter before the Council. (s.363 LGA)
- 5.1.2 All the provisions of this Regulation relating to meetings of the Council, so far as they are applicable, extend to and govern the proceedings of the Council when in Open Council, except the provision limiting the number and duration of speeches. (wsc)
- 5.1.3 The General Manager or, in the absence of the General Manager, an employee of the Council designated by the General Manager, is responsible for reporting to the Council proceedings in an Open Council. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported. (wsc)
- 5.1.4 The Council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed. (wsc)

### **5.2 Committees to Keep Minutes**

- 5.2.1 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 seconded of the motion or amendment;
  - (c) whether the motion or amendment is passed or lost. (Part 10, Clause 266 LG [General] Regs 2005)
- 5.2.2 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. (Part 10, Clause 266 LG [General] Regs 2005)
- 5.2.3 The minutes of the four peak committees of Council are to be tabled at the Council meeting as soon as possible. (wsc)
- 5.2.4 Any recommendations from the four peak committees of Council are to be presented as separate reports to Council at the next Council meeting. (wsc)

### **5.3 Council May Establish Committees**

- 5.3.1 A Council may, by resolution, establish such committees as it considers necessary. (Pt.5, Clause 33 Reg)
- 5.3.2 A committee is to consist of the Mayor and such other Councillors as are elected by the Councillors or appointed by the Council. (Part 10, Clause 260 LG [General] Regs 2005)

5.3.3 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. (Part 10, Clause 260 LG [General] Regs 2005)

#### **5.4 Functions of Committees**

5.4.1 A Council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions. (Part 10, Clause 261 LG [General] Regs 2005)

#### **5.5 Notice of Committee Meetings To Be Given**

5.5.1 The General Manager of a Council must send to each Councillor, at least three days before each meeting of the committee, a notice specifying:

- (a) the time and place at which and the date on which the meeting is to be held; and
- (b) the business proposed to be transacted at the meeting. (Part 10, Clause 262 LG [General] Regs 2005)

5.5.2 However, notice of less than three days may be given of a committee meeting called in an emergency. (Part 10, Clause 262 LG [General] Regs 2005)

#### **5.6 Non-Members Entitled to Attend Committee Meetings**

5.6.1 A Councillor who is not a member of a committee of a Council is entitled to attend and speak at a meeting of the committee. (Part 10, Clause 263 LG [General] Regs 2005)

5.6.2 However, the Councillor is not entitled:

- (a) to give notice of business for inclusion in the business paper for the meeting, or
- (b) to move or second a motion at the meeting, or
- (c) to vote at the meeting. (Part 10, Clause 263 LG [General] Regs 2005)

#### **5.7 Procedures in Committees**

5.7.1 Subject to subclause (3) each committee of Council may regulate its own procedure. (Part 10, Clause 265 LG [General] Regs 2005)

5.7.2 Without limiting subclause (1), a committee of 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. Subject to subclause (3) each committee of Council may regulate its own procedure. (Part 10, Clause 265 LG [General] Regs 2005)

5.7.3 Voting at a committee meeting is to be by open means (such as on the voices or by show of hands). Subject to subclause (3) each committee of Council may regulate its own procedure. (Part 10, Clause 265 LG [General] Regs 2005)

## **5.8 Chairperson and Deputy Chairperson of Committees**

5.8.1 The Chairperson of each committee of the Council, must be:

- (a) the Mayor; or
- (b) if the Mayor does not wish to be 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. (Part 10, Clause 267 LG [General] Regs 2005)

5.8.2 The Council may elect a member of a committee of the Council as deputy chairperson of the committee. If the Council does not elect a deputy Chairperson of such a committee, the committee may elect a deputy chairperson. (Part 10, Clause 267 LG [General] Regs 2005)

5.8.3 If neither the Chairperson nor the Deputy Chairperson of a committee of the Council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting Chairperson of the committee. (Part 10, Clause 267 LG [General] Regs 2005)

5.8.4 The Chairperson is to preside at a meeting of a committee of the Council. If the Chairperson is unable or unwilling to preside, the deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the Deputy Chairperson is able or willing to preside, the acting Chairperson is to preside at the meeting. (Part 10, Clause 267 LG [General] Regs 2005)

## **5.9 Absence From Committee Meetings**

5.9.1 A member ceases to be a member of a committee if the member (other than the Mayor):

- (a) has been absent from three consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or
- (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences. (Part 10, Clause 268 LG [General] Regs 2005)

5.9.2 Subclause (1) does not apply if all of the members of the Council are members of the Committee. (Part 10, Clause 268 LG [General] Regs 2005)

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

## **5.10 Reports of Committees**

5.10.1 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. (Part 10, Clause 269 LG [General] Regs 2005)

5.10.2 The recommendations of a committee of the Council are, so far as adopted by the Council, resolutions of the Council. (Part 10, Clause 269 LG [General] Regs 2005)

5.10.3 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. (Part 10, Clause 269 LG [General] Regs 2005)

### **5.11 Disorder at Council Meetings**

5.11.1 The provisions of the Act, the Regulation and this Code relating to the maintenance of order in Council meetings apply to meetings of committees of the Council in the same way as they apply to meetings of the Council. (Part 10, Clause 270 LG [General] Regs 2005)

### **5.12 Certain Persons May Be Expelled from Council Committee Meetings**

5.12.1 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 10A(1) (a) or (b) of the Act. (Part 10, Clause 271 LG [General] Regs 2005)

5.12.2 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. (Part 10, Clause 271 LG [General] Regs 2005)

## 6 PECUNIARY INTERESTS

### 6.1 *What Is a "Pecuniary Interest"*

- 6.1.1 **[Pecuniary Interest]** 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 or another person with whom the person is associated as provided in Section 443. (s.442 LGA)
- 6.1.2 **[Remoteness]** 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. (s.442 LGA)

### 6.2 *Who Has a Pecuniary Interest*

- 6.2.1 **[Interest In A Matter]** 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) another person with whom the person is associated as provided in this section. (s.443 LGA)
- 6.2.2 **[Relatives, Partners]** A person is taken to have a pecuniary interest in a matter if:
- (a) the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, has a pecuniary interest in the matter; or
  - (b) the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter. (s.443 LGA)
- 6.2.3 **[No Interest In the Matter]** However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (2):
- (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. (s.443 LGA)

### **6.3 What Interests Do Not Have to Be Disclosed**

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

- a. an interest as an elector (s.448 LGA)
- b. an interest as a ratepayer or person liable to pay a charge (s.448 LGA)
- 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 a section of the public that includes persons who are not subject to this Part. (s.448 LGA)
- 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, (s.448 LGA)
- 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). (s.448 LGA)
- 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. (s.448 LGA)
- 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 another person with whom the person is associated as provided in section 443 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 sub-paragraph (i), if the person or the other person with whom the person is associated would by reason of the proprietary interest have a pecuniary interest in the proposal. (s.448 LGA)
- 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, (s.448 LGA)
- 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, (s.448 LGA)

- 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: (s.448 LGA)
  - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation, (s.448 LGA)
  - (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, (s.448 LGA)
- k. an interest relating to the payment of fees to councillors (including the mayor and deputy mayor), (s.448 LGA)
- 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, (s.448 LGA)
- 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, (s.448 LGA)
- 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, (s.448 LGA)
- 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, (s.448 LGA)
- 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. Missing data: see hard copy of reprint, p 236 for landscape Table titled Disclosure of Interests. And see Sched. 2 [2] to the Local Government Amendment Act 2000 No 112 for amendment. Division 2 Disclosure of interests in written returns. (s.448 LGA)

#### **6.4 What Disclosures Must be Made By a Councillor?**

A Councillor:

- (a) must prepare and submit written returns of interests in accordance with section 449; and
- (b) must disclose pecuniary interests in accordance with section 451. (s.444 LGA)

#### **6.5 What Disclosures Must Be Made by a Designated Person?**

A designated person:

- (a) must prepare and submit written returns of interests in accordance with section 449; and
- (b) must disclose pecuniary interests in accordance with section 459. (s.445 LGA)

**6.6 What Disclosures Must be Made By a Member of a Council Committee**

A member of a council committee, other than a committee that is wholly advisory, must disclose pecuniary interests in accordance with section 451. (s.446 LGA)

**6.7 What Disclosures Must be Made By Council Advisers?**

A person giving advice to the Council at a Council or Council committee meeting must disclose pecuniary interests in accordance with section 456. (s.447 LGA)

**6.8 Disclosures to be Recorded**

A disclosure made at a meeting of the Council or Council committee must be recorded in the minutes of the meeting. (s.453 LGA)

- 6.8.1 A Councillor or member of a Council committee who has a pecuniary or non-pecuniary interest in any matter listed for consideration by the Council or committee, shall declare such interest prior to commencement of consideration of the agenda. (wsc)
- 6.8.2 Any disclosures in writing made by designated persons or disclosures by the General Manager shall also be tabled prior to commencement of consideration of the agenda. (wsc).

## 7 OPEN MEETINGS

### 7.1 *Public Notice of Meetings*

- 7.1.1 **[Notice of Time and Place]** A Council must give notice to the public of the times, dates and places of its meetings and meetings of those of its committees of which all the members are Councillors. (s.9 LGA)
- 7.1.2 **[Copies of Agenda and Business Papers]** 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. (s.9 LGA)
- 7.1.3 **[Agendas for Closed Meetings]** 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. (s.9 LGA)
- 7.1.4 **[Time of Availability]** The copies are to be available to the public as nearly as possible to the time they are available to Councillors. (s.9 LGA)
- 7.1.5 **[No Charges]** The copies are to be available free of charge. (s.9 LGA)
- 7.1.6 **[Electronic Form of Notice]** 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. (s.9 LGA)

### 7.2 *Who Is Entitled to Attend Meetings*

- 7.2.1 **[General Public]** 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. (s.10 LGA)
- 7.2.2 **[Result of Expulsion]** However, a person (whether a Councillor or another person) is not entitled to be present at a meeting of the Council or of such a Committee if expelled from the meeting:
- (a) by a resolution of the meeting, or
  - (b) by the person presiding at the meeting if the Council has, by resolution, authorised the person presiding to exercise the power of expulsion. (s.10 LGA)

- 7.2.3 **[Grounds Specified in Regulations]** A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations. (s.10 LGA)

### **7.3 Which Parts of a Meeting Can Be Closed to the Public?**

- 7.3.1 **[Meetings May be Closed]** 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. (s.10A LGA)

- 7.3.2 **[Grounds for Closure]** The matters and information are the following:

- (a) **personnel matters concerning particular individuals, (LGA)** (s.10A 2(a))

Parts of meetings can be closed to the public to consider personnel matters concerning particular individuals such as their income, health and work performance but the name of the individual should not be shown in the Agenda. As personnel matters are generally a management responsibility, it is unlikely that many matters of this nature would come before Councils. They would be more appropriately dealt with under delegation by the Council to the General Manager or under sub delegation by the General Manager to staff. (wsc)

Personnel matters of a more general nature, involving a section of staff or all staff, are not matters for which parts of a meeting can be closed. (wsc)

- (b) **the personal hardship of any resident or ratepayer,** (s.10A 2(b))

Parts of meetings can be closed to consider personal hardship particularly circumstances preventing a resident or ratepayer paying rates or charges, or requesting financial assistance. Hardship for residents and ratepayers can also relate to circumstances such as childcare concessions, building permit fees after bushfires, car parking offences, recreation ground fees for people with disabilities and library fines. Note in particular the waiving or reduction of fees under Section 610A. (wsc)

Again, such matters could be handled under delegation to prevent the agenda and the meeting time being overloaded with ratepayers; personal affairs. (wsc)

- (c) **information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,** (s.10A 2(c))

This provision replaces the former provisions covering proposals for Council selling or purchasing land or other property. (wsc)

A Council or Committee may close part of a meeting to consider confidential matters such as a reserve price or the auction of Council land or surplus equipment, or the price it would be prepared to pay to purchase an article or property. (wsc)

**(d) commercial information of a confidential nature that would, if disclosed:** (s.10A 2(d))

- (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,

A Council or Committee may close part of a meeting to prevent the disclosure of commercial information of a confidential nature that would, if disclosed: (wsc)

- (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. (wsc)

It is stressed that this provision applies only to **commercial** information that is of a **confidential** nature. This provision does not apply to information that is not commercial or is not confidential. For example, it cannot be used to prevent the consideration of a development application at an open meeting solely on the basis that it is a controversial matter. Nor does it prevent the open consideration of tenders/ contracts. (wsc)

Where a Council is considering entering into a contract, it should consider the inclusion in tender documentation for potential tenderers advice to the effect that commercial confidential detail provided by the tenderer will be included in a confidential business paper and not be made available to the public until after the tendering process has been concluded. This would not preclude all other aspects and details of a tender/ contract from being discussed openly. (wsc)

Councils have the same protection for their confidential commercial activities as that applying to other persons. (wsc)

**(e) information that would, if disclosed, prejudice the maintenance of law,** (s.10A 2(e))

*This provision covers circumstances such as the discussion of any confidential information passed to the Council by the Police Station. (wsc)*

**(f) matters affecting the security of the Council, Councillors, Council staff or Council property,** (s.10A 2(f))

*This provision covers circumstances such as the discussion of matters affecting the safety of Councillors or the protection of Council property. (wsc)*

- (g) **advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.** (s.10A 2(g))

Councils and committees may close parts of meetings to receive and consider advice concerning litigation or any advice which would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege. (wsc)

This power does not permit a part of a meeting to be closed to the public merely because the legal advice relates to a matter that may go to court. A meeting is not to be closed to receive and consider legal advice, 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.

Legal advice providing less than 3 minimum requirements would not provide an adequate basis for a Council or committee to consider the legal ramifications of an issue in which it is involved and therefore would not justify the closure of part of the meeting to the public. (wsc)

7.3.3 **[Closure of Resolution to Close]** 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. (s.10A(4) LGA)

7.3.4 **[Public's Right to Make Representations]** 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. (s.10A(4) LGA)

The potential of local Government is best realised when its decision making is open and accountable to the local community. However, for accountability to be effective there need to be mechanisms for citizen knowledge and participation in decision-making processes. The ability of the public and media to attend Council meetings and observe the deliberations and decisions of elected representatives plays a crucial role in achieving better standards of accountability. (wsc)

Councillors are expected to make their decisions honestly and impartially. They should be prepared to have their views aired publicly, on both controversial and routine issues. This is an integral element in ensuring accountability of Councillors to their constituents. The capacity of electors to vote in an informed manner is best achieved when they can clearly see the actions, including the speeches and voting patterns of their Councillors. (wsc)

Councillors have the benefit of qualified privileged during Council and committee meetings. This means that comment by Councillors is protected from defamation proceedings provided the comment is not motivated by bad faith or malice. (wsc)

Meetings to consider controversial building and development applications should not be closed to the public in order to avoid public opposition to the proposal or to protect the applicant from potential competition. The accountability of the Council for its decision on such a proposal can only be fully achieved if the decision making process is transparent to the public. (wsc)

In all Council decisions it is essential to openly demonstrate fairness, impartiality, objectivity and due consideration of all issues. Open decision making also provides some assurance of probity and integrity as well as preventing misunderstanding or even unfounded allegations. (wsc)

Councils are not required to ensure that all Council and committee meetings are open to the public except in the circumstances or closing parts of meetings set out in the Act. (wsc)

Council must continue to give prior public notice in the agenda of the intention to debate a matter in closed session. (wsc)

Advance notice of items of business to be considered in closed parts of meetings gives the community the ability to make known its views about such closure, and such views assist the Council or the committee in deciding whether or not (and why) parts of the meeting will be closed for the specified items. (wsc)

If the Council or committee decides to disagree with the General Manager's recommendation that an item be discussed in closed session (as shown on the agenda), the Council or committee should announce that public representation on the item will not be needed. (wsc)

The agenda should provide sufficient general information for an item of business of a closed part of a meeting to be identified, eg. "Auction of land at 25 Civic Street, Hometown" or "Personnel matter - outdoor staff", but should not give details involving confidentiality, privilege or security, eg. The reserve price of land to be auctioned by Council or the name of the person the subject of a personnel item of business. (wsc)

Details of items of business involving confidentiality, privilege or security, including notices of motion relating to such matters, should be included in a confidential business paper. Such a business paper need not be included among the papers made available to the public prior to or at a meeting. Where such items are included in a confidential business paper, the claim that such items involve confidentiality, privilege or security must be sustainable. (wsc)

Immediately after a motion to close part of a meeting to the public has been moved and seconded, debate on the motion should be suspended to allow the public to make such representations. (wsc)

- Each person addressing the Council may be allowed to speak for the maximum period of 2 minutes.
- The Council or committee could then close the meeting under section 10A(3) to consider whether part of the meeting should be closed to the public to consider the subject item.

The residents' debate need not be uninformed because they will be aware of the item by seeing it in the agenda and may have sufficient background information to comment usefully on the item. (wsc)

It is important that the Council or committee allows such number of members of the public to make representations on a proposed closure as is sufficient to enable the Council or committee to gauge the views of the members of the public present. All views, including those received before the meeting, should be taken into account by the Council or committee when deciding whether to close that part of the meeting to the public. (wsc).

#### **7.4 Further Limitations Relating to Closure of Parts of Meetings to Public**

7.4.1 **[Time Spent Closed to be Minimised]** A meeting is not to remain closed during the discussion of anything referred to in Section 10A (2) LGA:

- (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. (s.10B LGA)

7.4.2 **[Qualification of 10A(2)(g)]** 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. (s.10B LGA)

7.4.3 **[Qualification of 10A(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)). (s.10B LGA)

7.4.4 **[Irrelevant Matters]** 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. (s.10B LGA)

**NOTE:** Subsection (4) is in similar terms to section 59A (Public Interest) of the Freedom of Information Act 1989.

- 7.4.5 **[Director-General's Guidelines]** 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. (s.10B LGA)

### **7.5 Notice of Likelihood of Closure Not Required in Urgent Cases**

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. (s.10C LGA)

### **7.6 Grounds for Closing Part of Meeting to be Specified**

- 7.6.1 **[Record of Grounds For Closure]** 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. (s.10D LGA)

- 7.6.2 **[Details to be Specified]** 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. (s.10D LGA)

### **7.7 Public Access to Correspondence and Reports**

- 7.7.1 **[Reasonable Access]** 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. (s.11 LGA)

- 7.7.2 **[Exemptions to Access]** This section does not apply if the correspondence or reports:

- (a) relate to a matter that was received or discussed; or
- (b) were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public. (s.11 LGA)

- 7.7.3 **[Section Does Not Apply]** 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. (s.11 LGA)

## 8 ACCESS TO INFORMATION

### 8.1 Information Publicly Available

8.1.1 **[Available Documents]** Everyone is entitled to inspect the current version of the following documents free of charge:

- The Council's Code of Conduct
- The Council's Code of Meeting Practice
- Annual Report
- Annual Financial Reports
- Auditor's Report
- Management Plan
- EEO Management Plan
- The Council's policy concerning the payment of expenses incurred by, and the provision of facilities to, Councillors,
- The Council's Land Register
- Register of Investments
- Returns of the interests of Councillors, Designated persons and Delegates
- Returns as to candidates' campaign donations
- Agendas and business papers for Council and committee meetings (but not including business papers for matters considered when part of a meeting is closed to the public).
- Minutes of Council and committee meetings, but restricted (in the case of any part of a meeting that is closed to the public), to the resolutions and recommendations of the meeting.
- Any codes referred to in this Act.
- Register of delegations.
- Annual reports of bodies exercising delegated Council functions.
- Applications under Part 1 of Chapter 7 for approval to erect a building and associated documents.
- Development Applications (within the meaning of the Environmental Planning and Assessment Act 1979) and associated documents.
- Local policies adopted by the Council concerning approvals and orders.
- Records of approvals granted, any variation from local policies with reasons for the variation, and decisions made on appeals concerning approvals.
- Records of building certificates under the Environmental Planning & Assessment Act 1979.
- Plans of land proposed to be compulsorily acquired by the Council.
- Leases and licences for use of public land classified as community land.
- Plans of management for community land.
- Environmental planning instruments, development control plans and plans made under section 94AB of the Environmental Planning and Assessment Act 1979 applying to land within the Council's area.
- The statement of affairs, the summary of affairs and the register of policy documents required under the Freedom of Information Act 1989.
- Departmental representatives' reports presented at a meeting of the Council in accordance with section 433.
- The Register of graffiti removal work kept in accordance with Section 67A (s.12 LGA)

8.1.2 **[Exempt Documents]** Despite subsection (1) and the other provisions of this Act, a person does not have the right to inspect so much of a development application, or an application under Part 1 of Chapter 7 for approval to erect a building, as consists of:

- (a) the plans and specifications for any residential parts of a proposed building, other than plans that merely show its height and its external configuration in relation to the site on which it is proposed to be erected, or
- (b) commercial information, if the information would be likely:
  - (i) to prejudice the commercial position of the person who supplied it, or
  - (ii) to reveal a trade secret. (s.12 LGA)

8.1.3 **[Preceding Documents]** Everyone is entitled to inspect free of charge:

- (a) a document that was replaced by a current document referred to in subsection (1); and
- (b) if a document referred to in subsection (1) is produced annually, the corresponding document produced for the previous year. (s.12 LGA)

8.1.4 **[Time of Inspection]** The documents may be inspected at the office of the Council during ordinary office hours. (s.12 LGA)

8.1.5 **[Previous Versions]** The Council must allow inspection of versions of the documents other than the current and immediately preceding versions if those other versions are reasonably accessible. (s.12 LGA)

8.1.6 **[Other Documents]** The Council must allow inspection of its other documents free of charge unless, in the case of a particular document, it is satisfied that allowing inspection of the document would, on balance, be contrary to the public interest. (s.12 LGA)

8.1.7 **(Exempt Documents)** However, subsection (6) does not apply to the part (if any) of a document that deals with any of the following:-

- (a) personnel matters concerning particular individuals,
- (b) the personal hardships of any resident or ratepayer,
- (c) trade secrets,
- (d) a matter the disclosure of which would:
  - (i) constitute an offence against an Act, or
  - (ii) found an action for breach of confidence. (s.12 LGA)

- 8.1.8 **[Irrelevant Matters]** For the purpose of determining whether allowing inspection of a document would be contrary to the public interest, it is irrelevant that the inspection of the document may:
- (a) cause embarrassment to the Council or to Councillors or to employees of the Council, or
  - (b) cause a loss of confidence in the Council, or
  - (c) cause a person to misinterpret or misunderstand the information contained in the document because of an omission from the document or for any other reason. (s.12 LGA)

**Note:** Subsection (8) is in similar terms to section 59A (Public Interest) of the Freedom of Information Act 1989.

**Note:** A council could also make copies of the documents available at other places, for example, at libraries. A council may have other information available for inspection free of charge: for example, the rate record, the valuation list and the register of dog registrations. (s.12 LGA)

## 8.2 Restriction of Access to Information

- 8.2.1 **[Reasons to be Provided]** If the General Manager or any other member of the staff of a Council decides that access to a document or other information held by the Council should not be given to the public or a Councillor, the person concerned must provide the Council with written reasons for the restriction. (s.12A LGA)
- 8.2.2 **[Reasons to be Made Public]** The reasons must be publicly available. (s.12A LGA)
- 8.2.3 **[Review of Restriction]** The Council must review any such restriction no later than 3 months after it is imposed. (s.12A LGA)
- 8.2.4 **[Further Review]** The Council must, at the request of any person made after the expiry of a period of 3 months after that review (or of a period of 3 months after the most recent of any subsequent reviews) carry out a further review of the restriction. (s.12A LGA)
- 8.2.5 **[Removal of Restriction]** The Council must remove the restrictions if, at any time:
- (a) it finds that there are no grounds for the restriction, or
  - (b) access to the relevant document or other information is obtained under the *Freedom of Information Act 1989*. (s.12A LGA)
- 8.2.6 **[Review Unnecessary]** A review is not required under this section if the restriction concerned has been removed. (s.12A LGA)

### **8.3 Copies of Documents**

- 8.3.1 **[Right to Copy]** A right under this Act to inspect a document includes the right to take away a copy of the document. (s.12B LGA)
- 8.3.2 **[Copies to be Available]** Accordingly, a Council must have a copy of all relevant documents available for copying by, or on behalf of, any person who asks for one. (s.12B LGA)
- 8.3.3 **[Charge for Copies]** The copies may be taken away either free of charge or on payment of reasonable copying charges, as the Council chooses (except as otherwise specifically provided by or under this Act). (s.12B LGA)
- 8.3.4 **[Exemptions]** This section does not apply to the following:
- (a) the residential roll of electors referred to in section 302(1),
  - (b) the information sheets of candidates for election referred to in section 308,
  - (c) building certificates. (s.12B LGA)

**Note:** *Section 174(3) provides that a person may obtain a copy of a building certificate from the Council's record with the consent of the owner of the building (\*and on payment of the approved fee).*

### **8.4 Retention and Preservation of Records**

The Council must retain, preserve and destroy its records in accordance with any approved standards. (s.13 LGA)

## **9 Expressions of Community Opinion.**

### **9.1 Council Polls**

- 9.1.1 A Council may take a poll of electors for its information and guidance on any matter (s.14 LGA)

## 10 MISCELLANEOUS

### 10.1 *Inspection of the Minutes of Council or a Committee*

10.1.1 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. (Part 10, Clause 272 LG [General] Regs 2005)

10.1.2 The General Manager must ensure that the minutes of a 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. (Part 10, Clause 272 LG [General] Regs 2005)

**Note:** Section 12 of the Act confers a right (restricted in the case of closed parts of meetings) to inspect the minutes of a Council or committee of a Council. (Part 10, Clause 272 LG [General] Regs 2005)

### 10.2 *Distributing Documents at Council Meetings*

10.2.1 Circulation of documents to Councillors immediately prior to the Council meeting shall only be done with the concurrence of either the Mayor or the General Manager (wsc).

10.2.2 Any documentation being forwarded to Councillors which relates to an item on the Agenda for the Council meeting must be forwarded by midday Tuesday prior to the Wednesday meeting. (wsc)

### 10.3 *Tape Recording of Meeting of the Council or a Committee Prohibited Without Permission*

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

10.3.1. A person may use a tape recorder to record the proceedings of a meeting of a Council or a committee of a Council only with the authority of the Council or committee. (Part 10, Clause 273 LG [General] Regs 2005)

10.3.2. 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 of a Council for using or having used a tape recorder in contravention of this clause. (Part 10, Clause 273 LG [General] Regs 2005)

10.3.3. 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. (Part 10, Clause 273 LG [General] Regs 2005)

10.3.4. In this clause, tape recorder includes a video camera and any electronic device capable to recording speech, whether a magnetic tape is used to record or not. (Part 10, Clause 273 LG [General] Regs 2005).

10.3.5. Disposal of tapes of the Council meetings is to be conducted in accordance with the Records Act 1998.

#### **10.4 Certain Circumstances do not Invalidate Council Decisions**

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

- (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 committee meeting in accordance with section 451; or
- (e) a failure to comply with the code of meeting practice. (s.374 LGA)

#### **10.5 Disclosure and Misuse of Information - Prescribed Circumstances.**

##### **10.5.1 [Disclosure and Misuse of Information]**

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 Freedom of Information Act 1989; or
- (e) with other lawful excuse. (s.664 LGA)

##### **10.5.2 [Meeting Closed to the Public]**

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. (s.664 LGA)

### 10.5.3 [Exemptions to Subs 1 (a)]

Subsection 10.6.2 does not apply to:

- (a) the report of a committee of the Council after it has been presented to the Council; or
- (b) disclosure made in any of the circumstances referred to in subsections 10.6.1 (a-e);  
or
- (c) disclosure made in circumstances prescribed by the regulation, or
- (d) any agenda, resolution or recommendation of a meeting that a person is entitled to expect in accordance with Section 12. (s.664 LGA)

### 10.5.4 [Use of Information]

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 but if generally known for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person. (s.664 LGA)

### 10.5.5 [Influencing Decisions]

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. (s.664 LGA)

Maximum penalty: 50 penalty units

## 10.6 *Liability of Councillors, Employees and Other Persons*

A matter or thing done by the Minister, the Director-General, a Council, a Councillor, a member of a committee of the Council or an employee of the Council or any person acting under the direction of the Minister, the Director-General, the Council or a committee of the Council does not, if the matter or thing was done in good faith for the purpose of executing this or any other Act, and for and on behalf of the Minister, the Director-General, the Council or a committee of the Council, subject a Councillor, a member, an employee or a person so acting personally to any action, liability claim or demand. (s.731 LGA)

## 10.7 Equitable Treatment of People and Situations

**Note:** Section 439(1) of the Act provides that a Councillor, member of staff and delegate must act “honestly” and exercise a “reasonable degree of care and diligence” in carrying out his or her functions under the Act.

### 10.7.1 [Independence of Staff]

Section 352 of the Act provides that a member of staff is not subject to direction by the Council as to the content of any advice or recommendation made by the member.

### 10.7.2 [Direction of Council]

This section does not prevent a Council from directing a member of staff to provide advice or a recommendation (s.352 LGA)

### 10.7.3 [Councillor, member of staff or delegate]

A Councillor, member of staff or delegate must:

- a) not act contrary to law;
- b) not act unreasonably, unjustly or oppressively or in a discriminatory manner;
- c) deal with like situations in a like manner, but treating each matter on its merits;
- d) take all relevant information into consideration and must not take any irrelevant information or opinions into consideration;
- e) take all reasonable steps to ensure that the information upon which decisions or actions are based is factually correct and that all relevant information has been obtained;
- f) treat members of the public fairly and equitably and with respect, courtesy, compassion and sensitivity;
- g) refrain from any form of conduct, in the performance of his or her public or professional duties, which may cause any reasonable person unwarranted offence or embarrassment or give rise to the reasonable suspicion or appearance of improper conduct or partial performance of his or her public or professional duties; and
- h) not act for an improper or ulterior purpose or on irrelevant grounds. (wsc)

10.7.4. Councillors, staff, delegates and members of the public who address Council and Committee meetings are required to treat those in attendance fairly and equitably with respect and courtesy (wsc).

**NOTE** Disorder at a Council meeting may be dealt with under section 4.2, 4.3 and 4.4 of this Code of Meeting Practice.

## **10.8 Council's Policies and Procedures**

Councillors and staff must be aware of and comply with Council's policies and procedures including the following:

- Code of Conduct
- Equal Employment Opportunity (EEO) Plan
- Privacy Management Plan
- Protected Disclosure Policies & Procedures
- Civic Expenses and Facilities Policy. ( wsc)

## **10.9 Questions from the Public**

10.9.1. Questions from the public will be held between 5.30pm and 6.00pm. People wishing to ask questions must first give their name and topic of the question.

10.9.2. Questions from the public are to be written on a prescribed form and be read by the member of the public asking the question (refer attached schedule).

10.9.3. The duration be limited to three (3) minutes and the number of questions permitted by each speaker be no more than three (3).(wsc)

## **10.10 General Business Questions from Councillors**

10.10.1. Councillors may ask up to a maximum of three general business questions at the council meetings. (wsc).

## **10.11 Questions With Notice from Councillors**

10.11.1 That Questions With Notice submitted by Councillors on the prescribed form be included in Council's Agenda for the information of, and notation by, Councillors. (wsc) (*Attachment*)

## **10.12 Circulation of Documents Immediately Prior to Council Meeting**

10.12.1 That the circulation of documents at Ordinary Council meetings be undertaken by consensus of councillors at the meeting or if deemed extremely urgent by the Mayor in consultation with the General Manager

**10.13 Public Forum**

- 10.13.1 The application form (Attachment 12.3 of the Code of Meeting Practice) must be received by the General Manager's office by the close of business on Tuesday prior to the Council Meeting so that the name of the person and the topic for discussion may be listed at the meeting.
- 10.13.2 Members of the public may only address Council on items listed in the Council Business Paper, with the exception of tenders, legal matters and visitor items relating to development applications.
- 10.13.3 Presentations by members of the public be restricted to a maximum of three (3) per Ordinary Meeting and be limited to three (3) minutes duration."

## 11 SCHEDULES

### 11.1 *General Order of Business - Ordinary Meeting of Council*

1. OPENING OF THE MEETING
2. PRAYER
3. PUBLIC FORUM
4. APOLOGIES
5. ADOPTION OF MINUTES OF ORDINARY MEETING
6. BUSINESS ARISING FROM THE MINUTES
7. DECLARATIONS OF INTEREST
8. MAYORAL MINUTE (*if any*)
9. OPEN COUNCIL
  - Visitor Matters
  - Environment and Planning
  - Corporate Services
  - Technical Services
10. MAYOR TO RESUME CHAIR AT 5.00PM
11. COUNCIL MATTERS
  - General Manager
  - Corporate Services
12. NOTICES OF MOTION
13. DELEGATES' REPORTS
14. PETITIONS
15. QUESTIONS FROM THE PUBLIC
16. CORRESPONDENCE FOR ATTENTION
17. QUESTIONS WITH NOTICE
18. COMMITTEE REPORTS (*Tabled*)
19. COMMITTEE REPORTS (*Attached*)
20. GENERAL BUSINESS (*Councillors are requested to write matters raised on prescribed forms*)
21. CLOSED COUNCIL

### 11.2 *Meeting Cycle*

- 11.2.1. Second and fourth Wednesdays of each month commencing at 3.30pm. (Note provision Clause 2.2.3 regarding Extraordinary Meetings to consider residual business from previous meetings.)

## 12 ATTACHMENTS

### 12.1 Questions with Notice Form

# Question with Notice

FROM COUNCILLOR: \_\_\_\_\_

TO THE GENERAL MANAGER: \_\_\_\_\_

Date: \_\_\_\_\_

QUESTION: \_\_\_\_\_

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RESPONSE: \_\_\_\_\_

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#### OFFICE USE ONLY

#### ACTION TAKEN:

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**12.2 Questions from the Public Form**

# Questions From The Public

The question must be read by the person submitting it and then handed to the Council officer before leaving the meeting.

**NAME** \_\_\_\_\_ **COUNCIL MEETING** \_\_\_/\_\_\_/\_\_\_

**ADDRESS** \_\_\_\_\_

\_\_\_\_\_ **TELEPHONE NO.** \_\_\_\_\_

**REPRESENTING** \_\_\_\_\_  
(self / name of organisation)

**AGENDA ITEM NO. & TOPIC** \_\_\_\_\_

**QUESTION** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- Questions from the public will be held between 5.30pm and 6.00pm. People wishing to ask questions must first give their name and topic of the question.
- Questions are to be written on the prescribed form (copies available in Council Chamber) and be read by the member of the public asking the question.
- The duration is limited to three (3) minutes and the number of questions permitted by each speaker is no more than three (3).

**12.3 Public Forum Request Form**



**Public Forum Request Form**

- This application must be received by the General Manager's office by the close of business (4.30pm) on the Tuesday prior to the Council Meeting so that the name of the person and the topic for discussion may be listed at the meeting.
- Members of the public may only address Council on items listed in the Agenda, with the exception of tenders, legal matters, visitor items relating to development applications.
- Presentations by members of the public are to be restricted to a maximum of three (3) per Ordinary meeting and be limited to three (3) minutes' duration.

**Name:** \_\_\_\_\_ **Council Meeting Date:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_ **Telephone No.:** \_\_\_\_\_

**Representing** \_\_\_\_\_  
(self / name of organisation)

**Agenda Item No. & Topic:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**AUTHORISED BY:**

\_\_\_\_\_  
Mike Hyde  
**General Manager**

\_\_\_\_\_  
G Lewis  
**Mayor**

## **GUIDELINES FOR PUBLIC FORUM REQUESTS**

1. Persons wishing to address Council in the Public Forum segment of an Ordinary Meeting of Council must complete a Public Forum Request Form and submit it to the General Manager prior to the close of business (4.30pm) on the day before the Council Meeting.
  2. Presentations by members of the public are to be restricted to a maximum of three (3) per Ordinary meeting and be limited to three (3) minutes' duration.
  3. Statements may relate to any item in the agenda with the exception of tender issues, legal matters and visitor items relating to development applications.
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## **PRIVACY & PERSONAL INFORMATION PROTECTION ACT 1998**

### **Pre-Collection (Section 10)**

#### Wingecarribee Shire Council Public Forum Requests

The personal information that Council is collecting from you is personal information for the purposes of the Privacy and Personal Information Protection Act 1998 ("The Act").

The intended recipients of the personal information are Councillors and Officers within the Council during Council Meetings.

The supply of the information by you *is* voluntary. If you cannot provide or do not wish to provide the information sought, it will affect our ability to process your Public Forum Request.

Council is collecting this personal information from you in order to accommodate your request to make a statement in the Public Forum segment of an Ordinary Meeting of Council.

You may make application for access or amendment to information held by Council. You may also make a request that Council suppresses your personal information from a public register. Council will consider any such application in accordance with the Act.

Council is to be regarded as the agency that holds the information.

Enquiries concerning privacy issues can be addressed to Council's Privacy Coordinator (Public Officer).

Thank you.