



## **Report to General Manager**

Attachments:

1. Minutes - 17 June 2019
  2. GF07: Governance & Finance Committee Report - 17/06/19
- 

**SUBJECT:** Governance and Finance Committee - 17 June 2019

**AUTHOR:** Ian Curry, Manager Governance & Committee Services

**ENDORSED BY:** Margaret Palmer, Director Corporate Services

### **EXECUTIVE SUMMARY:**

This report presents the recommendations of the last meeting of the Governance and Finance Committee held on 17 June 2019 for Council adoption. The Minutes are attached for information.

The recommendations from GF07 – Code of Meeting Practice – Interim Engagement and Implementation Report (Min. No. 12) were deferred for consideration following completion of the public exhibition and consultation period for the Code of Meeting Practice (CoMP). This occurred on 20 June 2019 and a separate report recommending adoption of the CoMP is included in this Council meeting agenda. A full copy of GF07 is therefore included as Attachment 2 to facilitate consideration by the full Council.

### **FINANCIAL IMPLICATIONS:**

Nil.

### **RECOMMENDATION:**

1. **THAT** the Investments and Loan Borrowings report be received. (G01)
  2. **THAT** the report on the Land Valuation Services be received. (G02)
  3. **THAT** the report on the Emergency Services Levy (ESL) be received. (G03)
  4. **THAT** Council provide an update on the ESL communication to residents, ratepayers and Precinct Committees and also on the Council website. (G03)
  5. **THAT** Council write to the Minister and Shadow Minister expressing concern in relation the increased cost and shift to local government of the ESL. (G03)
  6. **THAT** the Precincts/Councillor Supper be reinstated annually. (G04)
  7. **THAT** the date for the next event be Monday 21 October 2019. (G04)
  8. **THAT** the Local Government Remuneration Tribunal 2019 Annual Report and Determination report be received. (G05)
  9. **THAT** the Councillor Professional Development Program Update report be received. (G06)
  10. **THAT** Councillors advise the General Manager if they are interested in attending any of the training courses offered by LGNSW. (G06)
  11. **THAT** the Committee endorses a weeknight in-house training session for Code of Meeting Practice and Code of Conduct followed by a general discussion on governance practice. (G06)
-

**12. THAT** this matter be deferred for consideration following the completion of the public exhibition and consultation period for the Code of Meeting Practice. (G07)

## **LINK TO COMMUNITY STRATEGIC PLAN**

The relationship with the Community Strategic Plan is as follows:

Direction: 5. Our Civic Leadership

Outcome: 5.3 Council is ethical, open, accountable and transparent in its decision making

## **BACKGROUND**

In accordance with Council's Code of Meeting Principles and Practices:

Clause 51.6 - the minutes of a Committee meeting can only be confirmed and adopted by resolution of that Committee, passed at a subsequent meeting of that Committee.

Clause 51.7 - the recommendations arising at Committee meetings are to be submitted to the next available Council meeting for adoption.

## **CONSULTATION REQUIREMENTS**

Community engagement is not required.

## **SUSTAINABILITY STATEMENT**

The sustainability implications are of a minor nature and as such did not warrant a detailed assessment.

## **DETAIL**

This report presents the recommendations of the last meeting of the Governance and Finance Committee held on 17 June 2019 for adoption by Council. The Minutes are attached for information.

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**NORTH SYDNEY COUNCIL****REPORT OF GOVERNANCE & FINANCE COMMITTEE**

**SUBJECT: PROCEEDINGS OF COMMITTEE AT MEETING HELD IN THE ROS CRICHTON PAVILION, NORTH SYDNEY, ON MONDAY 17 JUNE 2019 AT 6.00PM.**

**PRESENT**

Councillor Carr in the Chair, Councillors Baker, Beregi, Brodie, Keen and Mutton.

**Staff:** Ken Gouldthorp, General Manager  
Margaret Palmer, Director Corporate Services  
Rob Emerson, Director Open Space and Environmental Services  
Garry Ross, Manager Financial Services  
Ian Curry, Manager Governance and Committee Services

**Visitors:** Nil

**Apologies** were received from the Mayor, Councillor Gibson and Councillors Barbour and Drummond.

**Election of Chair**

In the absence of the Mayor, it was necessary to elect a Chair, in accordance with clause 49.6 of the Code of Meeting Principles and Practices.

A Motion was moved by Cr Beregi and seconded by Cr Baker that Cr Carr be elected as Chair for the Governance and Finance Committee meeting on 17 June 2019.

The Motion was put and carried unanimously.

At the commencement of business (6.27pm) Councillors present were:  
Councillor Carr in the Chair, Councillors Baker, Beregi, Brodie and Mutton.

**Declarations of Interest**

Nil.

**5. Minutes**

The Minutes of the previous meeting held on 8 April 2019, copies of which had been previously circulated, were taken as read and confirmed.

The Motion was moved by Councillor Baker and seconded by Councillor Beregi.

The Motion was put and carried.

Voting was as follows:

For/Against 5/0

| Councillor | Yes    | No | Councillor | Yes    | No |
|------------|--------|----|------------|--------|----|
| Gibson     | Absent |    | Barbour    | Absent |    |
| Beregi     | Y      |    | Drummond   | Absent |    |
| Keen       | Absent |    | Gunning    | Absent |    |
| Brodie     | Y      |    | Mutton     | Y      |    |
| Carr       | Y      |    | Baker      | Y      |    |

Cr Keen arrived at the meeting at 6.32pm.

## 6. **GF01: Investments and Loan Borrowings Held as at 31 May 2019**

Report of Garry Ross, Manager Financial Services

This report provides details of the performance of Council's investment portfolio and borrowing limits for the period ending 31 May 2019.

Investment Portfolio:

The portfolio provided an annualised return of 3.14% for the year to date as at 31 May 2019, 1.13% above the reportable benchmark (BBSW Bank Bill Index). Interest returns remain consistently above the benchmark. This was attributed to additional funds being made available for investment and prudent selection and allocation of these funds to the financial institutions which make up the investment portfolio.

Borrowings:

Council has entered into a principal and fixed loan of \$9.5 million. The adopted Delivery Program proposes further borrowing in the 2020/21 financial year.

The 2018/19 budgeted returns on investments is estimated to be \$1,730,000.00. This is significantly less than previous returns due to the declining cash reserve balances and continued low interest rates.

Any surplus funds generated in excess of adopted estimates will be transferred to Council's internally restricted reserves.

Investments and Loan borrowings funding comply with Council's Financial Management Policy.

Council has commenced a Request For Quotation (RFQ) for Investment Advisory Services in order to ensure the Investment Portfolio is being effectively managed. Council is seeking quotations from suitably qualified, experienced and independent advisors to assist in the strategic management and reporting of funds under investment and the on-going development of the investment policy.

This report is provided to the Committee for information in accordance with resolution 152 of 27 May 2019. In order to comply with Local Government (General Regulations Pt 9 DIV 5 Cl 212, the report will be re-presented in full to the June Ordinary meeting for adoption.

**Recommending:**

**1. THAT** the Investments and Loan Borrowings report be received.

The Motion was moved by Councillor Baker and seconded by Councillor Beregi.

The Motion was put and carried.

Voting was as follows:

For/Against 5/1

| Councillor | Yes    | No | Councillor | Yes    | No |
|------------|--------|----|------------|--------|----|
| Gibson     | Absent |    | Barbour    | Absent |    |
| Beregi     |        | N  | Drummond   | Absent |    |
| Keen       | Y      |    | Gunning    | Absent |    |
| Brodie     | Y      |    | Mutton     | Y      |    |
| Carr       | Y      |    | Baker      | Y      |    |

**Resolved to Recommend:**

**1. THAT** the Investments and Loan Borrowings report be received.

**7. GF02: Land Valuation Services – Valuer General**

Report of Garry Ross, Manager Financial Services

Council's current rating structure is levied annually based on the following factors:

- The rates category (Residential or Business)
- The calculation method
- The land value (Unimproved Capital Value)
- The allowable annual increase (Rate peg % or Special Rates Variation)

Council rates for residential and business properties are calculated entirely on the land value, but subject to a minimum amount. (Council must impose a rate per dollar [ad valorem] of land value, with a minimum amount).

The Valuer General provides land valuation services to Local Government ('councils') for rating purposes. In 1993, the NSW Government declared that these valuation services as government monopoly services which requires IPART to independently set the price that councils pay. In 2018, the Premier requested IPART to set the maximum prices for services provided by the Valuer General to councils, applicable for a 6-year period commencing from 1 July 2019.

A new price structure is replacing the current state-wide uniform pricing with a residential and non-residential charge. Under the new structure, one price per valuation applies (irrespective of property type) for four geographical zones (Country, Coastal, Metro and City of Sydney)

It is estimated that under the new pricing structure, Council is expected to have a 17% reduction in the annual valuation charges, representing a saving of \$10,000 per annum. The Valuer General valuations are a statutory obligation that all councils are required to implement in order to calculate Council's annual rates levy.

**Recommending:**

**1. THAT** the report on the Land Valuation Services be received.

The Motion was moved by Councillor Baker and seconded by Councillor Beregi.

The Motion was put and carried.

Voting was as follows:

For/Against 6/0

| Councillor | Yes    | No | Councillor | Yes    | No |
|------------|--------|----|------------|--------|----|
| Gibson     | Absent |    | Barbour    | Absent |    |
| Beregi     | Y      |    | Drummond   | Absent |    |
| Keen       | Y      |    | Gunning    | Absent |    |
| Brodie     | Y      |    | Mutton     | Y      |    |
| Carr       | Y      |    | Baker      | Y      |    |

**Resolved to Recommend:**

**1. THAT** the report on the Land Valuation Services be received.

**8. GF03: Emergency Services Levy (ESL)**

Report of Garry Ross, Manager Financial Services

The annual Emergency Services Levy (ESL) for the financial year 2019/20 has been assessed and announced by the NSW Government. North Sydney Council's contribution will be \$1,414,379.82, this represents an increase of 11.03% over and above the 2018/19 contribution.

The NSW Government has made changes to workers compensation to provide better protection for volunteer and career firefighters affected by work-related cancers. This will result in an increase in the cost of providing emergency services across the state.

The assessment for 2019/20 is \$1,414,380. An increase of 11.03% or \$140,528.

The adopted budget for 2019/20 is \$1,307,000, thus an additional \$107,380 is required to cover the budget shortfall.

The ESL is a statutory contribution that all councils are required to remit. The budget shortfall is to be addressed in the September Budget Review and will be funded from variations in the general revenues.

**Recommending:**

**1. THAT** the report on the Emergency Services Levy (ESL) be received.

A Motion was moved by Councillor Beregi and seconded by Councillor Baker,

**1. THAT** the report on the Emergency Services Levy (ESL) be received.

**2. THAT** Council provide an update on the ESL communication to residents, ratepayers and Precinct Committees and also on the Council website.

**3. THAT** Council write to the Minister and Shadow Minister expressing concern in relation the increased cost and shift to local government of the ESL.

The Motion was put and carried.

Voting was as follows:

For/Against 6/0

| Councillor | Yes           | No | Councillor | Yes           | No |
|------------|---------------|----|------------|---------------|----|
| Gibson     | <b>Absent</b> |    | Barbour    | <b>Absent</b> |    |
| Beregi     | <b>Y</b>      |    | Drummond   | <b>Absent</b> |    |
| Keen       | <b>Y</b>      |    | Gunning    | <b>Absent</b> |    |
| Brodie     | <b>Y</b>      |    | Mutton     | <b>Y</b>      |    |
| Carr       | <b>Y</b>      |    | Baker      | <b>Y</b>      |    |

**Resolved to Recommend:**

**1. THAT** the report on the Emergency Services Levy (ESL) be received.

**2. THAT** Council provide an update on the ESL communication to residents, ratepayers and Precinct Committees and also on the Council website.

**3. THAT** Council write to the Minister and Shadow Minister expressing concern in relation the increased cost and shift to local government of the ESL.

**9. GF04: Precincts/Councillor Supper**

Report of Gemma North, Community Engagement Coordinator

The Combined Precincts Committee (CPC) has requested that Council re-instate the Precincts/Councillor Supper event that was previously held annually between 2008 and 2013. Such an event used to be held after a CPC meeting, that fell on the same evening as a Committee of Council meeting, so that all parties could come from their respective meetings to the supper event for light refreshments and networking, which lasted approximately one hour.

At its February 2019 meeting, the CPC asked for a date to be set for the Precincts/Councillor Supper event.

Based on current availability in the Councillors Diary two date options are proposed for this event:

- a) Tuesday 15 October 2019 - date of the scheduled CPC meeting, noting there are currently no events scheduled in the Councillors' Diary; or
- b) Monday 21 October 2019 - Legal and Planning Committee meeting is scheduled, and the CPC meeting would be requested to move to this date. The CPC Co-conveners have been advised of the potential need to change their meeting date to accommodate this event. This is the preferred option.

The budgetary implications (catering) are minimal and can be paid for by annual CPC operational funding allocation. Catering can be limited to \$400 maximum.

Funding for the project is appropriate, managed through the adopted budget process.

**Recommending:**

1. **THAT** the Precincts/Councillor Supper be reinstated annually.
2. **THAT** the date for the next event be determined (either 15 or 21 October 2019).

A Motion was moved by Councillor Baker and seconded by Councillor Beregi,

1. **THAT** the Precincts/Councillor Supper be reinstated annually.
2. **THAT** the date for the next event be Monday 21 October 2019.

The Motion was put and carried.

Voting was as follows:

For/Against 6/0

| Councillor | Yes           | No | Councillor | Yes           | No |
|------------|---------------|----|------------|---------------|----|
| Gibson     | <b>Absent</b> |    | Barbour    | <b>Absent</b> |    |
| Beregi     | <b>Y</b>      |    | Drummond   | <b>Absent</b> |    |
| Keen       | <b>Y</b>      |    | Gunning    | <b>Absent</b> |    |
| Brodie     | <b>Y</b>      |    | Mutton     | <b>Y</b>      |    |
| Carr       | <b>Y</b>      |    | Baker      | <b>Y</b>      |    |

**Resolved to Recommend:**

1. **THAT** the Precincts/Councillor Supper be reinstated annually.
2. **THAT** the date for the next event be Monday 21 October 2019.

**10. GF05: Local Government Remuneration Tribunal 2019 Annual Report and Determination**

Report of Ian Curry, Manager Governance and Committee Services

The Local Government Remuneration Tribunal (the Tribunal) has determined an increase of 2.5% to mayoral and councillor fees for the 2019/20 financial year, with effect from 1 July 2019.

Council's submission to be reclassified from a Metropolitan Small council was unsuccessful.

Council has allocated a total of \$246,100.00 for Mayor and Councillors fees in the 2019/20 Budget.

**Recommending:**

1. **THAT** the Local Government Remuneration Tribunal 2019 Annual Report and Determination report be received.

The Motion was moved by Councillor Baker and seconded by Councillor Carr.



The Motion was put and carried.

Voting was as follows:

For/Against 6/0

| Councillor | Yes           | No | Councillor | Yes           | No |
|------------|---------------|----|------------|---------------|----|
| Gibson     | <b>Absent</b> |    | Barbour    | <b>Absent</b> |    |
| Beregi     | <b>Y</b>      |    | Drummond   | <b>Absent</b> |    |
| Keen       | <b>Y</b>      |    | Gunning    | <b>Absent</b> |    |
| Brodie     | <b>Y</b>      |    | Mutton     | <b>Y</b>      |    |
| Carr       | <b>Y</b>      |    | Baker      | <b>Y</b>      |    |

**Resolved to Recommend:**

**1. THAT** the Local Government Remuneration Tribunal 2019 Annual Report and Determination report be received.

**11. GF06: Councillor Professional Development Program Update**

Report of Ian Curry, Manager Governance and Committee Services

Amendments made to the Local Government Act 1993 (the Act) by the Local Government Amendment (Governance and Planning) Act 2016 in August 2016 saw the inclusion in the prescribed role of councillors under section 232 a responsibility “to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor”.

At its meeting on 25 February 2019, Council resolved to note the new requirements and that a professional development program be developed, in consultation with the Mayor and Councillors.

An amount of \$18,500.00 has been allocated in the 2019/20 budget for Mayor and Councillor attendance at conferences, seminars and training

**Recommending:**

**1. THAT** the Councillor Professional Development Program Update report be received.  
**2. THAT** Councillors advise the General Manager if they are interested in attending any of the training courses offered by LGNSW.

A Motion was moved by Councillor Beregi and seconded by Councillor Carr,

**1. THAT** the Councillor Professional Development Program Update report be received.  
**2. THAT** Councillors advise the General Manager if they are interested in attending any of the training courses offered by LGNSW.  
**3. THAT** the Committee endorses a weeknight in-house training session for Code of Meeting Practice and Code of Conduct followed by a general discussion on governance practice.

The Motion was put and carried.

Voting was as follows:

For/Against 6/0

| Councillor | Yes           | No | Councillor | Yes           | No |
|------------|---------------|----|------------|---------------|----|
| Gibson     | <b>Absent</b> |    | Barbour    | <b>Absent</b> |    |
| Beregi     | <b>Y</b>      |    | Drummond   | <b>Absent</b> |    |
| Keen       | <b>Y</b>      |    | Gunning    | <b>Absent</b> |    |
| Brodie     | <b>Y</b>      |    | Mutton     | <b>Y</b>      |    |
| Carr       | <b>Y</b>      |    | Baker      | <b>Y</b>      |    |

**Resolved to Recommend:**

**1. THAT** the Councillor Professional Development Program Update report be received.

**2. THAT** Councillors advise the General Manager if they are interested in attending any of the training courses offered by LGNSW.

**3. THAT** the Committee endorses a weeknight in-house training session for Code of Meeting Practice and Code of Conduct followed by a general discussion on governance practice.

## 12. **GF07: Code of Meeting Practice - Interim Engagement and Implementation Considerations Report**

Report of Ian Curry, Manager Governance and Committee Services

The purpose of this report is to provide a status update regarding the submissions received in response to the draft Code of Meeting Practice which is on exhibition from 9 May to 20 June 2019. No submissions have been received as at 12 June 2019.

A final report on the exhibition of the Code will be submitted to Council on 24 June 2019.

### **Recommending:**

**1. THAT** the Code of Meeting Practice - Interim Engagement Report be received.

**2. THAT** following adoption of the Model Code of Meeting Practice, the timing of Ordinary Meetings be amended as follows:

- i. 6.00pm to 7.00pm – Public Briefing Session
- ii. 7.00pm to 7.30pm - Break
- ii. 7.30pm – Ordinary Meeting

**3. THAT** Council consider amending membership of the Governance and Finance and Legal and Planning Committees as discussed within this report.

The Motion was moved by Councillor Mutton and seconded by Councillor Brodie.

The Motion was put and lost. The Chair declined to exercise his casting vote.

Voting was as follows:

For/Against 3/3

| Councillor | Yes | No | Councillor | Yes | No |
|------------|-----|----|------------|-----|----|
| Gibson     |     |    | Barbour    |     |    |
| Beregi     |     | N  | Drummond   |     |    |
| Keen       | Y   |    | Gunning    |     |    |
| Brodie     | Y   |    | Mutton     | Y   |    |
| Carr       |     | N  | Baker      |     | N  |

A Motion was moved by Councillor Baker and seconded by Councillor Keen,

**1. THAT** this matter be deferred for consideration following the completion of the public exhibition and consultation period for the Code of Meeting Practice.

The Motion was put and carried.

Voting was as follows:

For/Against 6/0

| Councillor | Yes    | No | Councillor | Yes    | No |
|------------|--------|----|------------|--------|----|
| Gibson     | Absent |    | Barbour    | Absent |    |
| Beregi     | Y      |    | Drummond   | Absent |    |
| Keen       | Y      |    | Gunning    | Absent |    |
| Brodie     | Y      |    | Mutton     | Y      |    |
| Carr       | Y      |    | Baker      | Y      |    |

**Resolved to Recommend:**

**1. THAT** this matter be deferred for consideration following the completion of the public exhibition and consultation period for the Code of Meeting Practice.

The meeting concluded at 7.07pm.

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**A/CHAIRPERSON**

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**GENERAL MANAGER**

Item **GF07**Governance & Finance Committee **17/06/19**

N O R T H   S Y D N E Y   C O U N C I L   R E P O R T S

**Report to General Manager**

Attachments:

1. Exhibited Code of Meeting Practice – April 2019

**SUBJECT:** Code of Meeting Practice - Interim Engagement and Implementation Considerations Report

**AUTHOR:** Ian Curry, Manager Governance and Committee Services

**ENDORSED BY:** Margaret Palmer, Director Corporate Services

**EXECUTIVE SUMMARY:**

The purpose of this report is to provide a status update regarding the submissions received in response to the draft Code of Meeting Practice which is on exhibition from 9 May to 20 June 2019. No submissions have been received as at 12 June 2019.

A final report on the exhibition of the Code will be submitted to Council on 24 June 2019.

**FINANCIAL IMPLICATIONS:**

Nil.

**RECOMMENDATION:**

- 1. THAT** the Code of Meeting Practice - Interim Engagement Report be received.
- 2. THAT** following adoption of the Model Code of Meeting Practice, the timing of Ordinary Meetings be amended as follows:
  - i. 6.00pm to 7.00pm – Public Briefing Session
  - ii. 7.00pm to 7.30pm - Break
  - ii. 7.30pm – Ordinary Meeting
- 3. THAT** Council consider amending membership of the Governance and Finance and Legal and Planning Committees as discussed within this report.

Report of Ian Curry, Manager Governance and Committee Services  
Re: Code of Meeting Practice - Interim Engagement and Implementation Considerations  
Report

(2)

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## LINK TO COMMUNITY STRATEGIC PLAN

The relationship with the Community Strategic Plan is as follows:

Direction: 5. Our Civic Leadership

Outcome: 5.3 Council is ethical, open, accountable and transparent in its decision making

## BACKGROUND

On 14 December 2018, the new Model Meeting Code was prescribed. Councils must adopt a new Code consistent with the Model Code, within six months of prescription i.e. by 14 June 2019.

At its meeting of 9 April 2019, Governance and Finance Committee considered a report on the Model Code of Meeting Practice (G04) issued by the Office of Local Government (OLG). The minutes of the Governance and Finance Committee were adopted at the Council meeting held 29 April 2019, whereby Council resolved (Min. No. 113):

*4. THAT Council adopt the 2018 Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct) and Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW (Procedures), as per Attachment 2 to this report. (G04)*

*5. THAT the attached Model Code of Meeting Practice, dated December 2018 with the deletion of clause 3.1, be placed on public exhibition for 28 days. Public submissions on the Model Code be received for a further 14 days after the exhibition period, as per Attachment 3 to this report. (G05)*

*6. THAT a further report be prepared for Council's consideration following the exhibition period. (G05)*

Before adopting a new Code of Meeting Practice, under section 361 of the Local Government Act, councils are required to exhibit their draft Code for at least 28 days and provide the community at least 42 days (total) in which to comment on the draft code.

## CONSULTATION REQUIREMENTS

Community engagement is being undertaken in accordance with Council's Community Engagement Protocol.

## SUSTAINABILITY STATEMENT

The sustainability implications were considered and reported on during the initiation phase of this project.

## DETAIL

In accordance with statutory requirements, the Model Code of Meeting Practices was publicly exhibited for 28 days from 2 to 30 May 2019 and a further 14 days is allowed during which submissions can be received i.e. submissions close 20 June 2019.

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Report of Ian Curry, Manager Governance and Committee Services  
Re: Code of Meeting Practice - Interim Engagement and Implementation Considerations  
Report

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The public exhibition period was promoted via an advertisement in the Mosman Daily on 9 May and 6 June 2019; via the May 2019 issue of Council E-news, of which 6 of the 1,105 subscribers have opened the article); to all Precinct Committees via memo and the weekly Precinct E-news (item ran weekly during exhibition period and will continue until the week of the closing date); and via A3 signage at the following locations - Customer Service Centre, Stanton Library, North Sydney Olympic Pool complex and Coal Loader Centre for Sustainability.

Between 2 May and 12 June 2019 there have been 73 page views on the Your Say page (via Council's website); of these visits, 15 visitors downloaded the document, and 48 visitors viewed the web page but did not download the document. No submissions have been received to date.

It is noted that the Combined Precincts Committee has included a related item on their next meeting agenda, to be held on 18 June 2019.

### **Public Forum**

As part of the new Code of Meeting Practice endorsed by Council for public exhibition, provision for a separate public forum or pre-meeting briefing session has been included.

It is proposed that these sessions would be held from 6pm-7pm on the same night as an Ordinary Council meeting. There would be a break between 7pm -7.30pm and the Council meeting would commence at 7.30pm.

### **Webcasting of Committee Meetings**

The model Code of Meeting Practice issued by the OLG requires that on and from 14 December 2019, all councils in NSW will be required to webcast meetings of the council and committees whose membership comprises only of councillors.

Should Council resolve to amend the Charters for the Governance and Finance Committee and Legal and Planning Committee to include senior staff membership, webcasting of Committee meetings will not be required.

### **Review of Terms of Reference for Committee Meetings**

Since 2017, 7 out of 19 meetings of the Governance (now Governance and Finance) Committee and Legal and Planning Committee have not achieved the necessary quorum of five Councillors and were either cancelled or proceeded inquorate.

In order to overcome this issue, Council may wish to amend the Charters for the Governance and Finance Committee and Legal and Planning Committee to allow membership by senior Council Officers. Section 376(2) of the Local Government Act states that "*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.*". It should be noted however that Council Committees only make recommendations to the full elected Council. Decisions are therefore ultimately made by the majority vote of elected Councillors only.

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Report of Ian Curry, Manager Governance and Committee Services  
Re: Code of Meeting Practice - Interim Engagement and Implementation Considerations  
Report

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Council may wish to consider amending the Charters for the two committees to appoint the General Manager to both Committees, the Director Corporate Services to the Governance and Finance Committee and the Director City Strategy to the Legal and Planning Committee. This would ensure that the meetings can proceed in a more interactive and less formal manner than has traditionally occurred. It will also assist in ensuring a quorum is maintained and obviate the need to relocate the Committee meetings to the Council Chambers in order to webcast them.

# **MODEL CODE OF MEETING PRACTICE FOR LOCAL COUNCILS IN NSW**

**2018**



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## 1 INTRODUCTION

This Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is made under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

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

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

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

The provisions of the Model Meeting Code that are not mandatory are indicated in **red font**.

A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by the council.

The Model Meeting Code also applies to meetings of the boards of joint organisations and county councils. The provisions that are specific to meetings of boards of joint organisations are indicated in **blue font**.

In adopting the Model Meeting Code, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

In adopting the Model Meeting Code, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

## 2 MEETING PRINCIPLES

### 2.1 Council and committee meetings should be:

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

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

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

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

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

community.

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

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

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

### 3 BEFORE THE MEETING

#### Timing of ordinary council meetings

~~3.1 Ordinary meetings of the council will be held on the following occasions:~~

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

**Note: Councils must use either clause 3.1 or 3.2**

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

**Note: Under section 396 of the Act, county councils are required to meet at least four (4) times each year.**

**Note: Under section 400T of the Act, boards of joint organisations are required to meet at least four (4) times each year, each in a different quarter of the year.**

#### Extraordinary meetings

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

**Note: Clause 3.3 reflects section 366 of the Act.**

#### Notice to the public of council meetings

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

**Note: Clause 3.4 reflects section 9(1) of the Act.**

3.5 For the purposes of clause 3.4, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The

notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.

- 3.6 For the purposes of clause 3.4, notice of more than one (1) meeting may be given in the same notice.

#### Notice to councillors of ordinary council meetings

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

**Note: Clause 3.7 reflects section 367(1) of the Act.**

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

**Note: Clause 3.8 reflects section 367(3) of the Act.**

#### Notice to councillors of extraordinary meetings

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

**Note: Clause 3.9 reflects section 367(2) of the Act.**

#### Giving notice of business to be considered at council meetings

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

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

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

- ~~3.13 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the general manager must either:~~

- ~~(a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or~~
- ~~(b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.~~

### Questions with notice

- 3.14 A councillor may, by way of a notice submitted under clause 3.10, ask a question for response by the general manager about the performance or operations of the council.
- 3.15 A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.
- 3.16 The general manager or their nominee may respond to a question with notice submitted under clause 3.14 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

### Agenda and business papers for ordinary meetings

- 3.17 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 3.18 The general manager must ensure that the agenda for an ordinary meeting of the council states:
  - (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
  - (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
  - (d) any business of which due notice has been given under clause 3.10.
- 3.19 Nothing in clause 3.18 limits the powers of the mayor to put a mayoral minute to a meeting under clause 9.6.
- 3.20 The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
- 3.21 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when

the meeting is closed to the public, the general manager must ensure that the agenda of the meeting:

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

**Note: Clause 3.21 reflects section 9(2A)(a) of the Act.**

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

#### Availability of the agenda and business papers to the public

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

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

- 3.24 Clause 3.23 does not apply to the business papers for items of business that the general manager has identified under clause 3.21 as being likely to be considered when the meeting is closed to the public.

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

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

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

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

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

#### Agenda and business papers for extraordinary meetings

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

- 3.28 Despite clause 3.27, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:
- (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 3.29 A motion moved under clause 3.28(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.
- 3.30 Despite clauses 10.20–10.30, only the mover of a motion moved under clause 3.28(a) can speak to the motion before it is put.
- 3.31 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.28(b) on whether a matter is of great urgency.

#### Pre-meeting briefing sessions

- 3.32 Prior to each ordinary meeting of the council, the general manager may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.
- 3.33 Pre-meeting briefing sessions are to be held in the absence of the public.
- 3.34 The **Mayor**, general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.
- 3.36 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.
- 3.37 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.

## **4 PUBLIC FORUMS**

- 4.1 The council may hold a public forum prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council.
- 4.2 Public forums are to be chaired by the mayor or their nominee.

- 4.3 To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by **4pm on the day of the meeting** before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.
- 4.4 A person may apply to speak on no more than **two (2)** items of business on the agenda of the council meeting.
- 4.5 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.
- 4.6 The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 4.7 No more than **two (2)** speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the council meeting.
- 4.8 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to address the council on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the general manager or their delegate is to determine who will address the council at the public forum.
- 4.9 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may, in consultation with the mayor or the mayor's nominated chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.
- ~~4.10 Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than **[number to be specified by the council]** days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.~~
- 4.11 The general manager or their delegate is to determine the order of speakers at the public forum.
- 4.12 Each speaker will be allowed three **(3)** minutes to address the council. This time is to be strictly enforced by the chairperson.
- 4.13 Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to



- do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.
- 4.14 A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.
- 4.15 Speakers are under no obligation to answer a question put under clause 4.14. ~~Answers by the speaker, to each question are to be limited to [number to be specified by the council] minutes.~~
- 4.16 Speakers at public forums cannot ask questions of the council, councillors or council staff.
- ~~4.17 The general manager or their nominee may, with the concurrence of the chairperson, address the council for up to [number to be specified by the council] minutes in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.~~
- 4.18 Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.
- 4.19 When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- 4.20 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.19, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.
- 4.21 Clause 4.20 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.
- 4.22 Where a speaker engages in conduct of the type referred to in clause 4.19, the general manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the general manager or their delegate considers appropriate.
- 4.23 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.

**Note: Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council. Where a public forum is held as part of a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of council and committee meetings.**

## 5 COMING TOGETHER

### Attendance by councillors at meetings

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

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

- 5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting.

~~5.3 The board of the joint organisation may, if it thinks fit, transact any of its business at a meeting at which representatives (or some representatives) participate by telephone or other electronic means, but only if any representative who speaks on a matter before the meeting can be heard by the other representatives. For the purposes of a meeting held in accordance with this clause, the chairperson and each other voting representative on the board have the same voting rights as they have at an ordinary meeting of the board.~~

~~**Note: Clause 5.3 reflects clause 397G of the Regulation. Joint organisations may adopt clause 5.3 and omit clause 5.2. Councils must not adopt clause 5.3.**~~

- 5.4 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.
- 5.5 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.
- 5.6 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 5.7 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of

the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

**Note: Clause 5.7 reflects section 234(1)(d) of the Act.**

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

#### The quorum for a meeting

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

**Note: Clause 5.9 reflects section 368(1) of the Act.**

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

**Note: Clause 5.10 reflects section 368(2) of the Act.**

- 5.11 A meeting of the council must be adjourned if a quorum is not present:
- (a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
  - (b) within half an hour after the time designated for the holding of the meeting, or
  - (c) at any time during the meeting.
- 5.12 In either case, the meeting must be adjourned to a time, date and place fixed:
- (a) by the chairperson, or
  - (b) in the chairperson's absence, by the majority of the councillors present, or
  - (c) failing that, by the general manager.
- 5.13 The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

- 5.14 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the safety and welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster (such as, but not limited to flood or bushfire), the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely

to bring notice of the cancellation to the attention of as many people as possible.

- 5.15 Where a meeting is cancelled under clause 5.14, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.3.

#### Entitlement of the public to attend council meetings

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

**Note: Clause 5.16 reflects section 10(1) of the Act.**

- 5.17 Clause 5.16 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.

- 5.18 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:

- (a) by a resolution of the meeting, or
- (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

**Note: Clause 5.18 reflects section 10(2) of the Act.**

~~**Note: If adopted, clauses 15.14 and 15.15 confer a standing authorisation on all chairpersons of meetings of the council and committees of the council to expel persons from meetings. If adopted, clause 15.14 authorises chairpersons to expel any person, including a councillor, from a council or committee meeting. Alternatively, if adopted, clause 15.15 authorises chairpersons to expel persons other than councillors from a council or committee meeting.**~~

#### Webcasting of meetings

- 5.19 All meetings of the council and committees of the council are to be webcast on the council's website.

**Note: Councils will be required to webcast meetings from 14 December 2019. Councils that do not currently webcast meetings should take steps to ensure that meetings are webcast by 14 December 2019.**

**Note: Councils must include supplementary provisions in their adopted codes of meeting practice that specify whether meetings are to be livestreamed or recordings of meetings uploaded on the council's website at a later time. The supplementary provisions must also specify whether the webcast is to comprise of an audio visual recording of the meeting or an audio recording of the meeting.**

~~Note: Joint organisations are not required to webcast meetings but may choose to do so by adopting clauses 5.19–5.22. Joint organisations that choose not to webcast meetings may omit clauses 5.19–5.22.~~

- 5.20 Clause 5.19 does not apply to parts of a meeting that have been closed to the public under section 10A of the Act.
- 5.21 At the start of each meeting the chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.
- 5.22 A recording of each meeting of the council and committee of the council is to be retained on the council's website for **two (2) years**. Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

#### Attendance of the general manager and other staff at meetings

- 5.23 The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all of the members are councillors.

**Note: Clause 5.23 reflects section 376(1) of the Act.**

- 5.24 The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.

**Note: Clause 5.24 reflects section 376(2) of the Act.**

- 5.25 The general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of employment of the general manager.

**Note: Clause 5.25 reflects section 376(3) of the Act.**

- 5.26 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the general manager.

## **6 THE CHAIRPERSON**

#### The chairperson at meetings

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

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

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

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

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

- 6.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.
- 6.4 The election of a chairperson must be conducted:
- (a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or
  - (b) by the person who called the meeting or a person acting on their behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.
- 6.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- 6.6 For the purposes of clause 6.5, the person conducting the election must:
- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
  - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

### Chairperson to have precedence

- 6.9 When the chairperson rises or speaks during a meeting of the council:
- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
  - (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

## **7 MODES OF ADDRESS**

- 7.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.
- 7.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.
- 7.3 A councillor is to be addressed as 'Councillor [surname]'.
- 7.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].

## 8 ORDER OF BUSINESS FOR ORDINARY COUNCIL MEETINGS

~~8.1 At a meeting of the council, the general order of business is as fixed by resolution of the council.~~

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

- 01 Opening meeting
- 02 Acknowledgement of country
- ~~03 Prayer~~
- 04 Apologies and applications for leaves of absence by councillors
- 05 Confirmation of minutes
- 06 Disclosures of interests
- 07 Mayoral minute(s)
- 08 Reports of committees
- 09 Reports to council
- 10 Notices of motions/questions with notice
- 11 Confidential matters
- 12 Conclusion of the meeting

**Note: Councils must use either clause 8.1 or 8.2.**

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

**Note: If adopted, Part 13 allows council to deal with items of business by exception.**

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

## 9 CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS

### Business that can be dealt with at a council meeting

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

- (a) unless a councillor has given notice of the business, as required by clause 3.10, and
- (b) unless notice of the business has been sent to the councillors in accordance with clause 3.7 in the case of an ordinary meeting or clause 3.9 in the case of an extraordinary meeting called in an emergency.

9.2 Clause 9.1 does not apply to the consideration of business at a meeting, if the business:

- (a) is already before, or directly relates to, a matter that is already before the council, or
- (b) is the election of a chairperson to preside at the meeting, or
- (c) subject to clause 9.9, is a matter or topic put to the meeting by way of a mayoral minute, or



- (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.
- 9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:
- (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.
- 9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

### Mayoral minutes

- 9.6 Subject to clause 9.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.
- 9.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.
- 9.8 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.
- 9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.

### Staff reports

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



### Reports of committees of council

- 9.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.
- 9.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

### Questions

- 9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.10 and 3.14.
- 9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.
- 9.16 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the general manager at the direction of the general manager.
- 9.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.
- 9.18 Councillors must put questions directly, succinctly, respectfully and without argument.
- 9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

## **10 RULES OF DEBATE**

### Motions to be seconded

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

### Notices of motion

- 10.2 A councillor who has submitted a notice of motion under clause 3.10 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.10 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.

- 10.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:
- (a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
  - (b) the chairperson may defer consideration of the motion until the next meeting of the council.

#### Chairperson's duties with respect to motions

- 10.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 10.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.
- 10.7 Before ruling out of order a motion or an amendment to a motion under clause 10.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.
- 10.8 Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been lost.

#### Motions requiring the expenditure of funds

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

#### Amendments to motions

- 10.10 An amendment to a motion must be moved and seconded before it can be debated.
- 10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 10.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.

- 10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

#### Foreshadowed motions

- 10.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.
- 10.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.
- 10.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

#### Limitations on the number and duration of speeches

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 10.21 A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- 10.22 A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time.
- 10.23 Despite clause 10.22, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

- 10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.
- 10.25 Despite clauses 10.20 and 10.21, a councillor may move that a motion or an amendment be now put:
- (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
  - (b) if at least two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.
- 10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.
- 10.27 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 10.20.
- 10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.
- 10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

#### Participation by non-voting representatives in joint organisation board meetings

~~10.31 Non-voting representatives of joint organisation boards may speak on but must not move, second or vote on any motion or an amendment to a motion.~~

~~————— **Note: Under section 400T(1)(c) of the Act, non-voting representatives of joint organisation boards may attend but are not entitled to vote at a meeting of the board.**~~

~~**Note: Joint organisations must adopt clause 10.31. Councils must not adopt clause 10.31.**~~

## **11 VOTING**

### Voting entitlements of councillors

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

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

~~**Note: Under section 400T(1) of the Act, voting representatives of joint organisation boards are entitled to one (1) vote each at meetings of the board.**~~

- 11.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.

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

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

~~11.4 A motion at a meeting of the board of a joint organisation is taken to be lost in the event of an equality of votes.~~

~~**Note: Clause 11.4 reflects clause 397E of the Regulation. Joint organisations must adopt clause 11.4 and omit clauses 11.2 and 11.3. Councils must not adopt clause 11.4.**~~

~~**Note: Under section 400U(4) of the Act, joint organisations may specify more stringent voting requirements for decisions by the board such as a 75% majority or consensus decision making. Where a joint organisation's charter specifies more stringent voting requirements, clause 11.4 must be adapted to reflect those requirements.**~~

#### Voting at council meetings

- 11.5 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- ~~11.6 If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.~~
- ~~11.7 The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.~~
- ~~11.8 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the council's minutes for the meeting.~~
- ~~11.9 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.5 of this code.~~
- 11.10 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

- 11.11 All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

**Note: If clause 11.11 is adopted, clauses 11.6 – 11.9 and clause 11.13 may be omitted.**

### Voting on planning decisions

- 11.12 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- ~~11.13 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.~~
- 11.14 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.
- 11.15 Clauses 11.12–11.14 apply also to meetings that are closed to the public.

**Note: Clauses 11.12–11.15 reflect section 375A of the Act.**

**Note: The requirements of clause 11.12 may be satisfied by maintaining a register of the minutes of each planning decision.**

## **12 COMMITTEE OF THE WHOLE**

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

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

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

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

- 12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- 12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes.

However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

### **13 DEALING WITH ITEMS BY EXCEPTION**

- 13.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.
- 13.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.
- 13.3 The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.
- 13.4 Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.3.
- 13.5 A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.
- 13.6 Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.
- 13.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.

### **14 CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC**

#### Grounds on which meetings can be closed to the public

- 14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:
  - (a) personnel matters concerning particular individuals (other than councillors),
  - (b) the personal hardship of any resident or ratepayer,
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or

- (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law,
- (f) matters affecting the security of the council, councillors, council staff or council property,
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
- (i) alleged contraventions of the council's code of conduct.

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

- 14.2 The council or a committee of the council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

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

Matters to be considered when closing meetings to the public

- 14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:
- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
  - (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

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

- 14.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 14.1(g) unless the advice concerns legal matters that:
- (a) are substantial issues relating to a matter in which the council or committee is involved, and
  - (b) are clearly identified in the advice, and
  - (c) are fully discussed in that advice.

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

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

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



- 14.6 For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
- (a) a person may misinterpret or misunderstand the discussion, or
  - (b) the discussion of the matter may:
    - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
    - (ii) cause a loss of confidence in the council or committee.

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

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

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

Notice of likelihood of closure not required in urgent cases

- 14.8 Part of a meeting of the council, or of a committee of the council, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed, but only if:
- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 14.1, and
  - (b) the council or committee, after considering any representations made under clause 14.9, resolves that further discussion of the matter:
    - (i) should not be deferred (because of the urgency of the matter), and
    - (ii) should take place in a part of the meeting that is closed to the public.

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

Representations by members of the public

- 14.9 The council, or a committee of the council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

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

- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by **3pm one business day [date and time to be specified by the council]** before the meeting at which the matter is to be considered.

- 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.13 No more than **three (3) ~~[number to be specified by the council]~~** speakers are to be permitted to make representations under clause 14.9.
- 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.
- 14.15 The general manager (or their delegate) is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than **three (3) ~~[number to be specified by the council]~~** speakers to make representations in such order as determined by the chairperson.
- 14.17 Each speaker will be allowed **three (3) ~~[number to be specified by the council]~~** minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

#### Expulsion of non-councillors from meetings closed to the public

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

#### Information to be disclosed in resolutions closing meetings to the public

- 14.20 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the

meeting. The grounds must specify the following:

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

**Note: Clause 14.20 reflects section 10D of the Act.**

#### Resolutions passed at closed meetings to be made public

- 14.21 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.
- 14.22 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the chairperson under clause 14.21 during a part of the meeting that is webcast.

### **15 KEEPING ORDER AT MEETINGS**

#### Points of order

- 15.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.
- 15.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.
- 15.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

#### Questions of order

- 15.4 The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- 15.5 A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.

- 15.6 The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- 15.7 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

#### Motions of dissent

- 15.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 15.9 If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 15.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

#### Acts of disorder

- 15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:
- (a) contravenes the Act 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 the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or
  - (d) insults or makes personal reflections on or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
  - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.
- 15.12 The chairperson may require a councillor:
- (a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a) or (b), or
  - (b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or
  - (c) to retract and apologise without reservation for an act of disorder referred to in clauses 15.11(d) and (e).

### How disorder at a meeting may be dealt with

- 15.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

### Expulsion from meetings

- ~~15.14 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person, including any councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act.~~
- 15.15 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.

**Note: Councils may use either clause 15.14 or clause 15.15.**

- 15.16 Clause ~~[15.14/15.15]~~ **[delete whichever is not applicable]**, does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.
- 15.17 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.
- 15.18 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.
- 15.19 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.
- 15.20 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

### Use of mobile phones and the unauthorised recording of meetings

- 15.21 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.
- 15.22 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.
- 15.23 Any person who contravenes or attempts to contravene clause 15.22, may be expelled from the meeting as provided for under section 10(2) of the Act.
- 15.24 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

## **16 CONFLICTS OF INTEREST**

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

## **17 DECISIONS OF THE COUNCIL**

### Council decisions

- 17.1 A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

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

~~**Note: Under section 400U(4) of the Act, joint organisations may specify more stringent voting requirements for decisions by the board such as a 75% majority or consensus decision making. Where a joint organisation's charter specifies more stringent voting requirements, clause 17.1 must be adapted to reflect those requirements.**~~

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

### Rescinding or altering council decisions

- 17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.10.

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

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

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

- 17.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.10.

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

- 17.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

**Note: Clause 17.6 reflects section 372(4) of the Act.**

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

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

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

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

- 17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.11 with the consent of all signatories to the notice of motion.

- 17.10 A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than 3pm on the first business day ~~[council to specify the period of time]~~ after the meeting at which the resolution was adopted.

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

**Note: Clause 17.11 reflects section 372(6) of the Act.**

- 17.12 Subject to clause 17.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:

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

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

17.14 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.12(c).

#### Recommitting resolutions to correct an error

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

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

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

17.17 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.

17.18 A motion moved under clause 17.15 can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.

17.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.

17.20 A motion moved under clause 17.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

### **18 TIME LIMITS ON COUNCIL MEETINGS**

18.1 Meetings of the council and committees of the council are to conclude no later than 11pm ~~[council to specify the time]~~.

18.2 If the business of the meeting is unfinished at 11pm ~~[council to specify the time]~~, the council or the committee may, by resolution, extend the time of the meeting.

18.3 If the business of the meeting is unfinished at 11pm ~~[council to specify the time]~~, the council or the committee may, by resolution, extend the time of the meeting.



~~time~~], and the council does not resolve to extend the meeting, the chairperson must either:

- (a) defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the council, or
- (b) adjourn the meeting to a time, date and place fixed by the chairperson.

18.4 Clause 18.3 does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.

18.5 Where a meeting is adjourned under clause 18.3 or 18.4, the general manager must:

- (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
- (b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the general manager is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

## 19 AFTER THE MEETING

### Minutes of meetings

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

**Note: Clause 19.1 reflects section 375(1) of the Act.**

19.2 At a minimum, 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 was passed or lost, and
- (d) such other matters specifically required under this code.

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

**Note: Clause 19.3 reflects section 375(2) of the Act.**

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

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

**Note: Clause 19.5 reflects section 375(2) of the Act.**

- 19.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 19.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

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

- 19.8 The council and committees of the council must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.

**Note: Clause 19.8 reflects section 11(1) of the Act.**

- 19.9 Clause 19.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

**Note: Clause 19.9 reflects section 11(2) of the Act.**

- 19.10 Clause 19.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

**Note: Clause 19.10 reflects section 11(3) of the Act.**

- 19.11 Correspondence or reports to which clauses 19.9 and 19.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

Implementation of decisions of the council

- 19.12 The general manager is to implement, without undue delay, lawful decisions of the council.

**Note: Clause 19.12 reflects section 335(b) of the Act.**

## **20 COUNCIL COMMITTEES**

Application of this Part

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

Council committees whose members are all councillors

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

- 20.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- 20.4 The quorum for a meeting of a committee of the council is to be:
- (a) such number of members as the council decides, or
  - (b) if the council has not decided a number – a majority of the members of the committee.

#### Functions of committees

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

#### Notice of committee meetings

- 20.6 The general manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:
- (a) the time, date and place of the meeting, and
  - (b) the business proposed to be considered at the meeting.
- 20.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

#### Attendance at committee meetings

- 20.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:
- (a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
  - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- 20.9 Clause 20.8 does not apply if all of the members of the council are members of the committee.

#### Non-members entitled to attend committee meetings

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

### Chairperson and deputy chairperson of council committees

20.11 The chairperson of each committee of the council must be:

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

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

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

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

### Procedure in committee meetings

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

20.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 20.15.

~~20.17 A motion at a committee of a joint organisation is taken to be lost in the event of an equality of votes.~~

~~**Note: Clause 20.17 reflects clause 397E of the Regulation. Joint organisations must adopt clause 20.17 and omit clause 20.16. Councils must not adopt clause 20.17.**~~

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

### Closure of committee meetings to the public

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

- 20.20 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.
- 20.21 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 20.20 during a part of the meeting that is webcast.

#### Disorder in committee meetings

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

#### Minutes of council committee meetings

- 20.23 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:
- (a) details of each motion moved at a meeting and of any amendments moved to it,
  - (b) the names of the mover and seconder of the motion or amendment,
  - (c) whether the motion or amendment was passed or lost, and
  - (d) such other matters specifically required under this code.
- 20.24 All voting **in public sessions** at meetings of committees of the council (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.
- 20.25 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.
- 20.26 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 20.27 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 20.28 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 20.29 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council

from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

## **21 IRREGULARITIES**

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

- (a) a vacancy in a civic office, or
- (b) a failure to give notice of the meeting to any councillor or committee member, or
- (c) any defect in the election or appointment of a councillor or committee member, or
- (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
- (e) a failure to comply with this code.

**Note: Clause 21.1 reflects section 374 of the Act.**

## 22 DEFINITIONS

|                               |  |
|-------------------------------|--|
| the Act                       | means the <i>Local Government Act 1993</i>   |
| act of disorder               | means an act of disorder as defined in clause 15.11 of this code   |
| amendment                     | in relation to an original motion, means a motion moving an amendment to that motion   |
| audio recorder                | any device capable of recording speech   |
| business day                  | means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales   |
| chairperson                   | in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and<br>in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 20.11 of this code  |
| this code                     | means the council's adopted code of meeting practice   |
| committee of the council      | means a committee established by the council in accordance with clause 20.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1   |
| council official              | has the same meaning it has in the Model Code of Conduct for Local Councils in NSW   |
| day                           | means calendar day   |
| division                      | means a request by two councillors under clause 11.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion  |
| foreshadowed amendment        | means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment   |
| foreshadowed motion           | means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion  |
| open voting                   | means voting on the voices or by a show of hands or by a visible electronic voting system or similar means   |
| planning decision             | means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act |
| performance improvement order | means an order issued under section 438A of the Act  |

|                |   |
|----------------|---|
| quorum         | means the minimum number of councillors or committee members necessary to conduct a meeting                                     |
| the Regulation | means the <i>Local Government (General) Regulation 2005</i>   |
| webcast        | a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time |
| year           | means the period beginning 1 July and ending the following 30 June  |