

## ITEM 5 POLICY REVIEW: CODE OF MEETING PRACTICE AND PUBLIC ACCESS FORUM

Following the September 2017 local government elections, the Code of Meeting Practice and Public Access Forum policy were reviewed. This report outlines key amendments proposed for the Code and Policy, and recommends it being placed on Public Exhibition.

### RECOMMENDATION

- 1 Council place the draft revised Code of Meeting Practice and Public Access Forum policy on public exhibition from 13 December 2017 to 14 February 2018, inviting submissions from the public.
- 2 Council receive a further report following the conclusion of the public exhibition and submission period, with a summary of submissions received, to consider adoption of the revised Code of Meeting Practice and Public Access Forum policy.

### REPORT AUTHORISATIONS

Report of: Clare Phelan, Manager Governance and Information (Acting)

Authorised by: Kylee Cowgill, Director Corporate Services - Connected and Engaged City (Acting)

### ATTACHMENTS

- 1 Draft revised Code of Meeting Practice
- 2 Draft revised Public Access Forum Policy

### BACKGROUND

Section 360 of the *Local Government Act 1993* allows councils to adopt a Code of Meeting Practice which incorporates the provisions for council meetings contained within the *Local Government Regulations 2005*. Council may also supplement those regulatory provisions with further provisions that are not inconsistent with them. In the attached draft Code of Meeting Practice, these supplementary provisions are referred to as "Council Protocols".

This section of the *Local Government Act* also states that Councils and Committees of the Council, of which all the members are Councillors, must conduct its meetings in accordance with the Code of Meeting Practice adopted by it.

The Code of Meeting Practice does not apply to Committees where not all members are Councillors, or briefings or workshops attended by Councillors that are facilitated by Council staff.

Section 361 of the *Local Government Act 1993* states that before adopting a Code of Meeting Practice, Council must prepare a draft Code (such as that attached) and further, give public notice of the draft Code after it is prepared, with a period of public exhibition not less than 28 days. The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to the council.

### Code of Meeting Practice

The Code of Meeting Practice was last reviewed and adopted by Council in August 2015.

As part of this current review of the Code of Meeting Practice, consultation was undertaken with the Councillors from the previous term of Council, in order to identify what worked well and what areas of the Code could be improved.

Comments received predominantly related to the Order of Business, with a view to dealing with Notices of Motion after staff reports had been considered.

## Public Access Forum

The Public Access Forum policy was last reviewed and adopted by Council in August 2015. At that time the Council added the “eligibility criteria” for acceptance of applications to the Forum.

### Addresses on matters not included on a Council agenda

In reviewing the Public Access Forum policy, consideration was given to whether addresses should continue to be heard on matters not on the Council meeting agenda. In order to best achieve the objectives of the policy, the provision to address Council at an ordinary meeting relating to any matter falling within the jurisdiction and Charter of Council should remain. However, the draft Policy recommends that this provision only be retained for ordinary meetings of Council, and extraordinary meetings be exempted.

### Addresses on Lord Mayoral Minutes and Notices of Motion

Further consideration was given to only allowing addresses on staff reports to Council, and not on either Lord Mayoral Minutes or Notices of Motion, as is the case at some other councils. It was not considered that excluding addresses on Councillor business would enhance the quality of, or assist in Council’s decision making processes, or portray Council as an open and accessible organisation. This draft recommends continuing to allow Council to hear addresses on Councillor Notices of Motion and Lord Mayoral Minutes, where they are included on an agenda.

### Acceptance of a Public Access Forum application outside scope of policy

The draft Policy includes provisions to reinforce that Council has ultimate jurisdiction over the conduct of the Forum and that nothing within the policy precludes Council from allowing a Public Access Forum Application outside the scope of the policy.

## PROPOSAL

*Code of Meeting Practice* - The proposed changes to the Code are outlined below:

Proposed inclusion	Current version	Comment
<b>Distribution of agenda and business paper</b>  4.3(8) Councillors will receive Agendas and Business Papers at least ten calendar days prior to an Ordinary Council meeting.	Not included in current version of Code	It has been Council’s practice to distribute Business Papers and agendas at least ten calendar days before a meeting, however this was never specified as part of any policy or procedure.
4.3(9) Council will publish Agendas and Business Papers to Council’s website seven calendar days prior to an Ordinary Council meeting, except where that day is a Public Holiday. In such cases Council will publish the Agenda and Business Papers on the following working day.	Not included in current version of Code	

Proposed inclusion	Current version	Comment
<b>Order of Business - rename heading</b>  4.5(1) "Conflict of Interests Disclosures"	Heading currently reads "Disclosures of Pecuniary Interests"	This section of the Agenda calls for any disclosures of a conflict of interests in any matter included on the Agenda, not only those of a pecuniary nature.
<b>Order of Business – re-ordering of list of items</b>  4.5(1) move the Agenda items to before Notices of Motion, and Urgent items (in an Ordinary meeting) to after all other business has been dealt with.	Notices of Motion are currently considered before staff reports on the Agenda.	This proposed amendment was raised by Councillors to ensure that matters on the agenda, subject to staff reports, are dealt with prior to consideration of Notices of Motion.
4.5(1) move Urgent items (in an Ordinary meeting) to after all other business has been dealt with.	Matters without notice are currently listed following Lord Mayoral Minutes, which take precedence on the Agenda.	The <i>Local Government Regulation 2004</i> s242(2-3) require matters without notice (urgency motions) at an Extraordinary Council meeting may only be considered after all other business notified in the Agenda has been disposed of. This is not required for an Ordinary meeting, however this amendment brings consistency to both.
<b>Dealing with matters without notice at an Ordinary meeting</b>  4.7(1) Despite Clause 4.6 (1) business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. However this can happen only if: <ul style="list-style-type: none"> <li>a a motion is passed to have the business transacted at the meeting; and</li> <li>b the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.</li> </ul> Such a motion can be	4.7(1) Despite Clause 4.6 (1) business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. However this can happen only if: <ul style="list-style-type: none"> <li>a a motion is passed to have the business transacted at the meeting; and</li> <li>b the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.</li> </ul> Such a motion can be moved without notice.	There is currently no requirement at an Ordinary meeting of Council to dispose of all other matters on the agenda before considering if Council will allow business without notice (urgent business) to be transacted.  In contrast, matters without notice at an Extraordinary meeting may only be considered after all other business has been disposed of under the Regulations.  Consistency is achieved with the addition of the words "but only after the business notified in the agenda for the meeting has been disposed of."

Proposed inclusion	Current version	Comment
moved without notice, <b>but only after the business notified in the agenda for the meeting has been disposed of.</b>		
<b>6.4 Motions to be seconded</b>  Include list of all Procedural motions not requiring a seconder	The current Code only lists two in the table.	This inclusion is to provide a more comprehensive listing in a single location in the Code, of procedural motions that do not require a seconder.
<b>7.5 Table of Procedural Motions</b>	Not included in current version of Code	The Table lists all Procedural Motions referred to in the Code and each's corresponding clause in the Code.
<b>Recording of Council and Committee meetings</b>  14.3(5) Video and audio of full Council meetings will be streamed live through Council's website.	5  Digital audio recordings of Council and Committee meetings may be made by Council staff for the purpose of:  a assisting in the preparation of minutes; and  b verifying the accuracy of minutes prior to their confirmation.	This, and the following two amendments, bring the Code up to date with current practices since the introduction of live webcasting and publication of Council meetings on Council's website.
14.3(6) Copies of the video and audio recording of full Council meetings will be made available to the public for viewing on Council's website, as soon as practicable following the date of a meeting.	6  Audio recordings will be stored until the minutes from the meeting to which they relate have been confirmed by Council as required by State Records General Authority 39 (GA39).	

Proposed inclusion	Current version	Comment
Removal of 14.3(7)	<p>7 Access to the audio recordings will only be provided for the purpose of:</p> <ul style="list-style-type: none"> <li>a preparing and verifying the accuracy of the minutes of meetings; and</li> <li>b complying with court orders, warrants, subpoenas or legislation where the recordings are still in existence.</li> </ul>	

In late 2016, the Office of Local Government (OLG) advised councils that they had commenced work on a Model Code of Meeting Practice. To date, the Model has yet to be released, and the OLG have not provided any further formal indication of anticipated timing.

The proposed changes outlined above are relatively minor in nature. It is recommended a further review of Council's Code be undertaken once the OLG releases a Model Code of Meeting Practice.

*Public Access Forum Policy* - The Public Access Forum policy supports the Code of Meeting Practice insofar as it informs how the Public Access Forums at Council meetings are to be conducted.

Proposed inclusion	Change	Comment
<p><b>Objective</b></p> <p>2 Establish processes and to ensure consistency in relation to the procedures for determining applications for the Forum.</p>	Additional to current policy objectives outlined	This inclusion does not change the way in which the Public Access Forums are conducted.
<p><b>Applications</b></p> <p>2.1 Applications may be made to address either Ordinary or Extraordinary meetings of Council.</p>	Not specified in the current policy	Makes clear that both Ordinary and Extraordinary meetings may be addressed through a public access forum.
<p>2.2 Applications to address an Ordinary meeting of Council must</p> <ul style="list-style-type: none"> <li>i be made in writing on the application form attached to this policy and be received by Council, no later than 12 noon on the working</li> </ul>	<p>2.2 Applications to address an Ordinary meeting of Council must</p> <ul style="list-style-type: none"> <li>i be made in writing on the application form attached to this policy and be received by Council, no later than 12 noon on the working day prior to the</li> </ul>	Provides clarity around the timeframes for submitting an application to address Council in the Forum and those applications received after that time will not be accepted.

Proposed inclusion	Change	Comment
day prior to the day of the meeting. <b>Applications received after this time will be refused.</b>	day of the meeting.	
Removal of provision	2.2 ii Wherever possible, a person or group who supports an opposite view to the applicant must be notified and given the opportunity to speak.	This assumes that Council knows where a person or persons hold an opposing view on any matter. The removal of this provision does not prevent a person with an opposing view from making application to address Council in the Forum.
Removal of provision	2.2 iii Any documentation to be provided to Councillors shall either accompany the application or be available for distribution to Councillors prior to the meeting. include any documentation to be distributed to Councillors. No written material is to be circulated during the presentation.	The provisions are inconsistent with clause 4.4 where material to be distributed may be provided at a time prior to commencement of the Council meeting.
2.3 Applications to address an Extraordinary meeting of Council, in addition to points (i) and (ii) above, must relate only to the business included in the Extraordinary meeting business paper.	Not included in current policy	The purpose of an Extraordinary Meeting is to address what is generally urgent business outside of the usual Council meeting cycle. It is recommended that addresses in Public Access Forum at Extraordinary meetings be restricted to matters on the agenda only.
<b>Exclusions</b>  3.1 Addresses will not be permitted on:  vi Procurement matters, such as formal tenders, quotations, expressions of interest, or calls for proposals.	3.1 Addresses will not be permitted on:  vi All representations in respect of formal tenders and/or quotations	Expands on the definitions to better represent the types of procurement activities that come before Council.
<b>Conduct of Public Access Forum</b>  4.1 The forum will be limited to a period of 30 minutes,	4.1 The forum will be limited to a period of 30 minutes, with a maximum of six addresses per meeting	Clarifies the intention of this provision is to allow both Council and the General Manager some discretion with the Public Access

Proposed inclusion	Change	Comment
<p>with a maximum of six addresses per meeting subject to:</p> <ul style="list-style-type: none"> <li>i Council having discretion to extend the allocated Forum time at any meeting, where it is considered appropriate to do so, by way of a Resolution of Council; and</li> <li>ii the provisions of clause 2.4 of this policy.</li> </ul>	<p>unless extended by Council.</p>	<p>Forum, when it is appropriate to do so.</p>
<p>4.2 Each speaker will be permitted to address Council on one or more business paper items, for a maximum total time of five (5) minutes.</p>	<p>4.2 Each address shall be limited to five (5) minutes.</p>	<p>Clarifies the intention of this provision to limit each speaker's total speaking time to five minutes only. This ensures that each speaker has an equal opportunity to address the Council.</p>
<p>4.4 Due to time constraints, speakers cannot use technology as part of their address, however, can distribute hard copies of information prior to the commencement of the meeting. The Minute Clerk can assist with the distribution of such information. <b>Speakers are responsible for ensuring enough copies are provided for the Lord Mayor, each Councillor and the General Manager at a minimum.</b></p>	<p>4.4 Due to time constraints, speakers cannot use technology as part of their address, however, can distribute hard copies of information prior to the commencement of the meeting. The Minute Clerk can assist with the distribution of such information.</p>	<p>With the removal of 2.2 iii it makes clear that speakers are responsible for ensuring adequate copies are provided for councillors, particularly where provided immediately before a meeting.</p>
<p><b>6 Minutes</b></p> <p>The Minutes will record the name of the speaker and group represented (if applicable), the subject matter of the address and where it relates to a matter on the Agenda, whether the speaker was in favour or against the recommendation/s made</p>	<p>6 Minutes must include a brief synopsis of the presentation/s.</p> <p>Wherever possible, speakers should provide the Minute Clerk with a written summary of their presentation, prior to commencement of the meeting.</p>	<p>The current provision to include a synopsis, was introduced prior to the full Public Address being made available to the public via Council's website. It is considered there is a risk of the synopsis mis-representing what a speaker has intended to convey as part of their address to the Council. The public availability of the actual address via the webcast adequately</p>



Proposed inclusion	Change	Comment
in the report.		addresses this issue.
<b>Webcasting</b> 7.2 Video and audio recordings of full Council meetings, including addresses made in Public Access Forums, will be made available to the public for viewing on Council's website, as soon as practicable following the date of a meeting.	Not included	This inclusion updates the policy in line with current technologies.
<b>Request for public access outside scope of policy</b> Nothing in this policy prevents Council from resolving at a Council meeting to allow an application for Public Access Forum outside the scope of this policy.	Not included	This provision reinforces that Council has the discretion to determine any application outside of the scope of this policy.

It is proposed that the draft policies be placed on Public Exhibition for an extended period of time, of at least 63 days, to make allowance for the Christmas and school holiday periods. This exceeds the minimum period for exhibition (minimum 28 days) and invitations of submissions from the public (minimum 42 days).

## CONSULTATION AND COMMUNICATION

Community engagement is proposed for an extended period to account for Christmas and school holiday periods.

The exhibition period will be promoted online through Council's website, with notices placed in a local newspaper prior to Christmas, and during the first week of February 2018.

## PLANNING AND POLICY IMPACT

This report contributes to the delivery of Wollongong 2022 goal "We are a connected and engaged community".

It specifically delivers on core business activities as detailed in the Governance and Administration Service Plan 2017-18.

## CONCLUSION

The draft Code of Meeting Practice and draft Public Access Forum policy remain consistent with their objectives and the requirements of the Local Government Act 1993 and Local Government (General) Regulation 2005, and it is appropriate they are now placed on exhibition for an extended period of time.





ADOPTED BY COUNCIL: [TO BE COMPLETED BY CORP SUPPORT]

## BACKGROUND

As part of its Charter, Council is to involve Councillors, Council staff, members of the public and others in the development, improvement and coordination of local government. The way in which meetings are conducted is an important part of achieving this goal.

## OBJECTIVE

The objectives of this Code of Meeting Practice are:

- to ensure that all meetings of Council and its Committees are conducted in an orderly and proper manner;
- to ensure that all meetings of Council and its Committees are conducted according to the principles of procedural fairness and due process;
- to assist with the conduct of discussion and debate during Council and Committee meetings;
- to increase Council's professionalism, transparency and accountability to the community;
- to ensure that all Councillors understand their rights and obligations during Council and Committee meetings;
- to ensure that all Councillors have an equal opportunity to participate fully in the meeting;
- to ensure that Councillors participate in meetings that engender a positive meeting environment that is without malice and avoids insulting, improper or defamatory statements; and
- to be an effective aid to good governance.

## POLICY STATEMENT

Council and Committee meetings comprising of Councillors only are to be conducted in accordance with this Code of Meeting Practice.

CODE OF MEETING PRACTICE

COUNCIL POLICY

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### DEFINITIONS

<b>Amendment</b>	in relation to an original motion, means a motion moving an amendment to that motion.
<b>Code/the Code/this Code</b>	means the Wollongong City Council Code of Meeting Practice
<b>Committee</b>	means a Committee of the Council established under clause 33 of the Regulation or when the Council has resolved itself into a Committee of the Whole.
<b>Consent of the Council/Meeting</b>	means with the consent of a majority of those Councillors present at a meeting
<b>DMB</b>	Dunhill Madden Butler Guideline Series – Council Meeting Guidelines Aug 1999
<b>Extraordinary Meetings</b>	Extraordinary Meetings are additional meetings to those in the adopted Council meeting cycle and include those called in an emergency.
<b>Foreshadowed Amendment</b>	a proposed amendment foreshadowed by a Councillor during debate on the first amendment.
<b>Foreshadowed Motion</b>	a motion foreshadowed by a Councillor during discussion on an original motion that is predominately the opposite to that proposed in the motion or where it is proposed to alter the motion more drastically than that permissible in an amendment.
<b>General Manager</b>	means the General Manager of Wollongong City Council
<b>LGA</b>	means the Local Government Act 1993. Where used, this abbreviation will be followed by numbers and/or letters, which are references to a section of the Act.
<b>Motion</b>	a proposal put forward by a Councillor or a Committee member calling for a specific action to be taken or a decision to be made on a particular matter before the meeting.
<b>OLG Circular</b>	Office of Local Government Circular 10 – 21 May 2010
<b>OLG C of C 2015</b>	Office of Local Government Model Code of Conduct – March 2015
<b>OLG C of C 2015 Guidelines</b>	Office of Local Government Model Code of Conduct Guidelines – June 2015
<b>Practice note</b>	Office of Local Government Meetings Practice Note No 16 – August 2009
<b>Reg</b>	Local Government (General) Regulation 2005
<b>Relative</b>	relative, in relation to a person, means any of the following; <ul style="list-style-type: none"> <li>(a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or the person's spouse or de facto partner;</li> <li>(b) the spouse or de facto partner of the person or of a person referred to in paragraph (a).</li> </ul>
<b>Variation to a Motion</b>	is where a Councillor seeks to vary a motion by obtaining the consent of the mover of the motion and the consent of Council to have the proposed variation included in the motion.

## CODE OF MEETING PRACTICE

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### APPLICATION OF THE CODE

#### Conduct of Meetings of Council and Committees

- 1 The regulations may make provisions with respect to the conduct of meetings of Council and Committees of Council of which all members are Councillors.
- 2 Council may adopt a Code of Meeting Practice which incorporates the regulations made for the purpose of this section and supplement those regulations with provisions that are not inconsistent with them.
- 3 Council and 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 it.

LGA 360

### AMENDMENT OF THE CODE

#### Preparation, Public Notice, and Exhibition of Draft Code

- 1 Before adopting a Code of Meeting Practice, Council will prepare a draft Code.
- 2 Council will give public notice of the draft Code after it is prepared, with a period of public exhibition *not less than 42 days* during which time submissions may be made by the public.
- 5 Council will publicly exhibit the draft Code in accordance with its notice.

LGA 361 and Council protocol

#### Adoption of the Code

- 1 After considering all submissions received concerning the draft Code, Council may decide to:
  - a amend those provisions of its draft Code that supplement the Regulations made for the purposes of this section of the Code; or
  - b adopt the draft Code as its Code of Meeting Practice.
- 2 If the Council decides to amend its draft Code, it may publicly exhibit the amended draft in accordance with this section of the Code or, if the Council is of the opinion that the amendments (arising from the public submissions only) are not substantial, it may adopt the amended draft Code, without public exhibition, as its Code of Meeting Practice.

LGA 362

The only exception is when an amendment is triggered by a change in the Local Government Act or the Local Government (General) Regulation 2005. In such cases the legislation effectively amends a Code of Meeting Practice.

OLG Circular

### PUBLIC AVAILABILITY OF THE CODE

- 1 The Code of Meeting Practice adopted under this section by a Council must be available for public inspection free of charge at the office of the Council during ordinary office hours.
- 2 Copies of the Code will be available free of charge.

LGA 364

**NOTE** – The Code is published on Council's website.



## CODE OF MEETING PRACTICE

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## PART 1 – NOTICE OF MEETINGS

**1.1 Frequency of Ordinary Meetings**

- 1 Council is required to meet at least 10 times each year, each time in a different month.  
*LGA 365*
- 2 Council and Committee meetings may be held in different locations from time to time if circumstances deem it necessary provided that the venue:
  - a is accessible for people with disabilities
  - b is adequate in size
  - c has adequate facilities for the convenience and comfort of Councillors, staff and members of the public, and
  - d has suitable acoustic properties.*Practice Note*

**1.2 Notice to Councillors for Ordinary Meetings**

- 1 Notice of Meetings – the General Manager must send to each Councillor, at least seven days before each meeting of the Council (or Committee), a notice specifying the time and place at which and the date on which the meeting is to be held and the business to be transacted at the meeting.  
*LGA 367(1) and Council Protocol*
- 2 Form of Notice – a notice under this section, and the agenda and business paper for the meeting may be given to Councillors in electronic form, but only if all Councillors have facilities to access the notice, agenda and business paper in that form.  
*LGA 367(3)*

**1.3 Notice to Councillors for Extraordinary Meetings**

- 1 If the Lord Mayor receives a request in writing signed by at least 2 Councillors (the Lord Mayor can be one of the two Councillors), the Lord Mayor must call an Extraordinary Meeting of the Council to be held as soon as practicable but in any event within 14 days after receipt of the request.  
*LGA 366 and Practice Note*
- 2 If the Lord Mayor refuses or delays to call an Extraordinary Meeting of Council after receiving a request under Clause 1.3(1) of this Code, those Councillors may, in writing, request the General Manager to call the Extraordinary Meeting of Council. The General Manager must call the meeting as soon as it is practicable.
- 3 The General Manager, in consultation with the Lord Mayor, may call an Extraordinary Meeting of Council if considered necessary and appropriate.  
*Council Protocol*
- 4 Notice of less than seven days may be given of an Extraordinary Meeting called in an emergency.  
*LGA 367(2) and Council Protocol*

**1.4 Public notice of Meetings**

- 1 Council must give notice to the public of the times and places of meetings of Council and Committees of which all members are Councillors.  
*LGA 9 (1)*
- 2 A notice of a meeting of Council or a Committee must be published in a newspaper circulating in the Wollongong local government area before the meeting takes place.

**NOTE** – An advertisement indicating dates of scheduled Council and Committee meetings will be included on Council's website at [www.wollongong.nsw.gov.au](http://www.wollongong.nsw.gov.au) and on Council's page in the Wollongong Advertiser.

*Reg 232 (2)-(5) and Council Protocol*

## PART 2 – QUORUM AND ATTENDANCE

**2.1 Quorum for a Meeting**

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

## CODE OF MEETING PRACTICE

## COUNCIL POLICY

LGA 368

### 2.2 Participation in Council Meetings

A Councillor cannot participate in a meeting of Council unless personally present at the meeting.

Reg 235

### 2.3 Quorum not present

- 1 A meeting of Council must be adjourned if a quorum is not present:
  - a within half an hour after the time designated for the holding of the meeting; or
  - b at any time during the meeting.
- 2 In either case, the meeting must be adjourned to a time, date and place fixed:
  - a by the Chairperson; or
  - b in his or her absence – by the majority of the Councillors present; or
  - c failing that, by the General Manager.
- 3 The General Manager must record in the Council 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 Council, together with the names of the Councillors present.

Reg 233

Where a quorum is not present, Councillors are able to discuss the agenda and make notes on the discussion however Council is not able to make binding decisions.

Council Protocol

### 2.4 Attendance at Council Meetings

A civic office becomes vacant if the holder (Councillor):

- 1 is absent from 3 consecutive ordinary meetings of the council (unless the holder is absent because he or she has been suspended from office under the LGA or because the council has been suspended under the LGA or as a consequence of a compliance order under section 438HA of the LGA) without:
  - a prior leave of Council; or
  - b leave granted by Council at any of the meetings concerned.

LGA 234 (1) (d)

**NOTE** – Tendering an apology does not constitute a formal leave of absence.

### 2.5 Application for leave of absence

- 1 A Councillor's application for leave of absence from Council meetings should, where practicable, be made in writing, including by electronic means, and identify (by date) the meetings from which the Councillor intends to be absent and the reason the absence is sought. This application is to be lodged with the General Manager and submitted to the next meeting of Council for determination
- 2 For the purposes of Clause 2.5 of this Code, a Councillor applying for a leave of absence from a meeting of Council does not need to make the application in person and the Council may grant such leave in the absence of that Councillor.

Reg 235A (1) and Council Protocol

LGA 234 (2)

### 2.6 Meeting attendance whilst on leave of absence

- 1 If the holder of a civic office attends a Council meeting (whether or not an ordinary meeting) despite having been granted leave of absence, the leave of absence is taken to have been rescinded as regards to any future Council meeting.
- 2 Subsection (1) above does not prevent Council from granting further leave of absence in respect of any future Council meeting.
- 3 A Councillor who intends to attend a Council meeting despite having been granted leave of absence should, if practicable, give the General Manager at least two (2) days' notice of his or her intention to attend.

LGA 234 (3)-(4)

## CODE OF MEETING PRACTICE

## COUNCIL POLICY

Reg 235A (2)

### 2.7 Who is entitled to attend Council or Committee meetings

- 1 Except as provided elsewhere in this Code:
  - a everyone is entitled to attend a meeting of the Council and those of its Committees of which all the members are Councillors; and
  - b a Council must ensure that all meetings of the Council and of such Committees are open to the public.
- 2 A person (whether a Councillor or another person) is not entitled to be present at a meeting of the Council or of a Committee if expelled from the meeting:
  - a by a resolution of the meeting; or
  - b by the person presiding at the meeting if the Council has, by resolution, authorised the person presiding to exercise the power of expulsion.
- 3 A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by the Regulations – refer Part 8 of this Code.

LGA 10

### 2.8 Attendance of General Manager

- 1 The General Manager is entitled to attend, but not vote at, a meeting of the Council or at a meeting of a Committee of the Council of which all the members are Councillors.
- 2 The General Manager is entitled to attend a meeting of any other Committee of the Council and may, if a member of the Committee, exercise a vote.
- 3 However, the General Manager may be excluded from a meeting of the Council or a Committee while the Council or Committee deals with a matter relating to the standard of performance of the General Manager or the terms of the employment of the General Manager.

LGA 376

## PART 3 – PRESIDING OVER MEETINGS OF COUNCIL

### 3.1 Who presides at meetings of Council

- 1 The Lord Mayor or, at the request of or in the absence of the Lord Mayor, the Deputy Lord Mayor presides at meetings of the Council.
- 2 If the Lord Mayor or Deputy Lord Mayor are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council.

LGA 369

### 3.2 Councillors to preside at Council meetings

- 1 If no Chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a Chairperson to preside at the meeting.
- 2 The election must be conducted:
  - a by the General Manager or, in their absence, the Public Officer to conduct the election; or
  - b if neither of them is present at the meeting or there is no General Manager or Public Officer – by the person who called the meeting or a person acting on their behalf.
- 3 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.
- 4 For the purposes of subclause (b), 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.

## CODE OF MEETING PRACTICE

## COUNCIL POLICY

- 5 The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.

*Reg 236*

### 3.3 Chairperson to have precedence

When the Chairperson rises during a meeting of the Council:

- 1 any Councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat, and;
- 2 every Councillor present must be silent to enable the Chairperson to be heard without interruption.

*Reg 237*

### 3.4 Chairperson's duty with respect to motions

- 1 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.
- 2 The Chairperson must rule out of order any motion that is unlawful or the implementation of which, would be unlawful.
- 3 Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.
- 4 The Chairperson is to ensure that motions and amendments are clearly stated for the benefit of all present and may request a Councillor to repeat the motion or amendment if unclear or inaudible.

*Reg 238*

*Council Protocol*

### 3.5 Mode of address

- 1 To facilitate debate, Councillors, with the exception of the Chairperson, are to stand in their place when speaking at a meeting of Council, unless prevented from doing so by disability or injury. This procedure does not need to be followed at Committee meetings or in circumstances where the Chairperson rules that standing is not required.
- 2 In addressing Council, Councillors and other persons addressing the Council will use the appropriate mode of address to the Lord Mayor (being My Lord Mayor or Mr or Madam Chair), Deputy Lord Mayor, fellow Councillors, Council employees and members of the public in attendance.
- 3 Councillors will at all times conduct themselves in accordance with the general conduct obligations contained within Council's adopted Code of Conduct. Councillors will respect the right of their fellow Councillors to speak without interruption, will only speak when called upon by the Chairperson and should speak through the Chairperson, or the General Manager when addressing a question to staff.

*Council Protocol*

## PART 4 – MEETING AGENDA AND BUSINESS PAPER

### 4.1 Agenda and business paper for Ordinary meeting

- 1 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.
- 2 The General Manager must ensure that the agenda for a meeting of the Council states –
  - a all matters to be dealt with arising out of the proceedings of former meetings of the Council;
  - b if the Lord Mayor is the Chairperson – any matter or topic that the Chairperson proposes, at the time when the agenda is prepared, to put to the meeting; and
  - c subject to subclause (3), any business of which due notice has been given.
- 3 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.



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## COUNCIL POLICY

- 4 The General Manager must ensure that the details of any item of business to which section 9 (2A) of the Act applies are included in a business paper agenda for the meeting concerned – ie items considered in Closed Council.
- 5 Nothing in this Clause limits the powers of the Chairperson under Clause 4.8 of this Code. *Reg 240*
- 6 Confidential items on both Council and Committee Business Paper Agenda's for open meetings are to be listed after all non-confidential items. *Council Protocol*

### 4.2 Agenda and business paper for closed session of Council

- 1 In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the General Manager, is likely to take place when the meeting is closed to the public:
  - a the agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item); and
  - b the agenda for the meeting must also indicate the reason the item will be dealt with in the closed session of Council which must be one of the following –
    - i personal matters concerning particular individuals (other than Councillors);
    - ii the personal hardship of any resident or ratepayer;
    - iii information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business;
    - iv commercial information of a confidential nature that would, if disclosed –
      - prejudice the commercial position of the person who supplied it; or
      - confer a commercial advantage on a competitor of the Council; or
      - reveal a trade secret;
    - v information that would, if disclosed, prejudice the maintenance of law;
    - vi matters affecting the security of the Council, Councillors, Council staff or Council property;
    - vii advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege;
    - viii information concerning the nature and location of a place or an item of Aboriginal significance on community land;
    - ix alleged contraventions of any Code of Conduct requirements applicable under section 440. *LGA 9 (2A) and 10A (2)*
  - c the requirements of Clause 4.3 (1) with respect to the availability of business papers does not apply to the business papers for any item of business referred to in Clause 4.2 of this Code. *LGA 9 (2A)*
- 2 The General Manager must ensure that the details of any item of business to which Clauses (a) and (b) apply are included in a business paper for the meeting concerned together with the reasons why it is not in the public interest to discuss the matter in open Council. *Council Protocol*

### 4.3 Distribution of agenda and business paper

- 1 A Council and each such Committee of which all members are Councillors must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business paper (such as correspondence and reports) for the meeting.
- 2 The copies are to be available to the public as nearly as possible to the time they are available to Councillors.
- 3 The copies are to be available free of charge.
- 4 A notice given under this section or a copy of an agenda or of a business paper made available under this section may in addition be given or made available in electronic form. *LGA 9 (2)-(5)*

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## COUNCIL POLICY

- 5 Four copies of the agenda and business paper will be provided at Council and Committee meetings.
- 6 Council's agenda and business paper are available on the Council website at [www.wollongong.nsw.gov.au](http://www.wollongong.nsw.gov.au).
- 7 Council's agenda and business paper or individual reports may be obtained from Council's Customer Service Centre or the Libraries free of charge.
- 8 Councillors will receive Agendas and Business Papers at least ten calendar days prior to an Ordinary Council meeting.

*Council Protocol*

- 9 Council will publish Agendas and Business Papers to Council's website seven calendar days prior to an Ordinary Council meeting, except where that day is a Public Holiday. In such cases Council will publish the Agenda and Business Papers on the following working day.

*Council Resolution – Min 242 of 10/09/2012 and Council Protocol*

### 4.4 Removal of items from the agenda and business paper

- 1 Once the agenda for a meeting has been sent to Councillors, an item of business on the agenda cannot be removed from the agenda prior to the meeting.
- 2 If it is proposed that an item of business which is on the agenda not be dealt with at the meeting, Council should resolve to defer that business to another meeting or resolve not to consider the matter, as the case may be.

*OLG Practice Note 16/2009 – Pg 8*

### 4.5 Order of business

- 1 The Order of Business at Ordinary meetings of Council, other than Extraordinary meetings, where required will be –
  - Acknowledgement of Traditional Owners
  - Civic Prayer
  - Apologies
  - Conflict of Interests Disclosures
  - Petitions and Presentations
  - Confirmation of Minutes of Ordinary Council meeting
  - Confirmation of Minutes of Extraordinary Council meeting
  - Confirmation of Minutes of Council Committee meeting
  - Public Access Forum
  - Call of the Agenda
  - Lord Mayoral Minute
  - Agenda Items
  - Items Laid on the Table
  - Notice of Motion(s)
  - Notice of Rescission Motion(s)
  - Urgent Items
  - Confidential Business

**Note – All questions without notice and tabling of letters are to be submitted by way of the Councillor request process.**

- 2 The order of business fixed under subclause (1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.
- 3 Despite Clause 7.4 only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.

*Reg 239*

- 4 Where a Council meeting has not concluded by 10 pm, the Lord Mayor will move a Procedural Motion that the meeting be either extended or adjourned. In accordance with Clause 7.1 (3) of this Code this Procedural Motion does not require a seconder. If the motion is to adjourn, debate will take place as to a date and time for the meeting to reconvene to consider all business not transacted at the adjourned meeting.

*Council Protocol*

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## COUNCIL POLICY

Council does not need to issue a new agenda and business paper for the adjourned meeting and business not already on the agenda could be dealt with only if the urgency procedure in Clause 4.7 of this Code.

If the meeting is adjourned to a different date, time or place, each Councillor and the public (where practicable) should be notified of the new date, time or place.

*OLG Prac Note*

- 5 A Councillor may move a Procedural Motion that an Item 'lie on the table'. If the motion is successful no further debate can be undertaken until there is a Procedural Motion for the Item to be 'taken off the table'. Such a motion is not debatable and there can be no amendments or right of reply. This motion can be moved only once during the discussion of any substantive motion and if the motion is carried while an amendment is before the Chair, both the amendment and the original motion are laid on the table.

At the end of the Council meeting at which the Item was 'laid on the table' the Chairperson will remind Councillors that there are matter/s 'on the table' which Council may now wish to consider. Otherwise the matter/s will appear on the agenda and business paper for the next Ordinary Council meeting.

If and when the Item is 'taken off the table' debate resumes where it left off, with Councillors who have already spoken (other than the mover in reply) having no further right to speak.

*Council Protocol*

### 4.6 Giving notice of business

- 1 Council must not transact business at a meeting of the Council:
  - a unless a Councillor has given notice of the business in writing no later than 5.00 pm on the Tuesday 13 calendar days prior to the Ordinary Council meeting in accordance with the Council meeting schedule or five (5) calendar days in the case of Extraordinary Council meetings; and
  - b unless notice of the business has been sent to the Councillors in accordance with Clause 1.2 of this Code.
- 2 Subclause (1) does not apply to the consideration of business at a meeting if the business:
  - a is already before, or directly relates to a matter that is already before the Council; or
  - b is the election of a Chairperson to preside at the meeting as provided by Clause 3.2 of this Code; or
  - c is a matter or topic put to the meeting by the Chairperson in accordance with Clause 4.7 of this Code; or
  - d is a motion for the adoption of recommendations of a committee of the Council.

*Reg 241 (1)-(2)*

### 4.7 Dealing with matters without notice at an Ordinary meeting

- 1 Despite Clause 4.6 (1) business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. However this can happen only if:
  - a a motion is passed to have the business transacted at the meeting; and
  - b the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.

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

*Reg 241 (3) and Council protocol*

**Note** – If, after the Councillor has addressed the Council, the Chairperson has ruled the matter is of great urgency, then the motion is moved, seconded, debated and voted on.

If the Chairperson rules the motion is not urgent, no further debate on the matter is permitted.

If the Chairperson rules the motion is not urgent, a Councillor may move a motion of dissent.

*Council Protocol*

- 2 Despite Clauses 6.5 and 7.4 (2) of this Code only the mover of a motion referred to in subclause (1) above can speak to the motion before it is put.

*Reg 241 (4)*



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## COUNCIL POLICY

### 4.8 Lord Mayoral Minute

- 1 If the Lord Mayor is the Chairperson at a Council meeting, the Chairperson, is by minute signed by the Chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of Council or of which the Council has official knowledge.

*Reg 243*

- 2 Lord Mayoral Minutes should not be used to introduce, without notice<sup>1</sup>, matters that are routine, not urgent, or need research or a lot of consideration by the Councillors before coming to a decision. These types of matters are better placed on the Agenda with the usual period of notice given to the Councillors.

*OLG Prac Note*

- 3 Such a minute, when put to the meeting, takes precedence over all business on the Council agenda/business paper for the meeting. The Chairperson (but only if the Chairperson is the Lord Mayor) may move adoption of the minute without the motion being seconded.

- 4 A recommendation made in a minute of the Chairperson (being the Lord Mayor) or in a report by a Council employee is, so far as adopted by Council, a resolution of Council.

*Reg 243*

- 5 A Late Business Lord Mayoral Minute prepared prior to the Council meeting will be added to the business paper agenda in accordance with the Order of Business as stated in Clause 4.5 of this Code.

*Council Protocol*

### 4.9 Agenda and business paper for Extraordinary meeting

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

*Reg 242(1)*

### 4.10 Dealing with matters without notice at an Extraordinary meeting

- 1 Despite Clause 4.9, business may be transacted at an extraordinary meeting of Council even though due notice of the business has not been given to the Councillors. However this can only happen if:

- a a motion is passed to have the business transacted at the meeting; and
- b the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.

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

- 2 Despite Clauses 6.5 and 7.4 (2), only the mover of a motion referred to in subclause (1) above can speak to the motion before it is put.

*Reg 242 (2)-(3)*

### 4.11 Public access forum – members of the public addressing Council

Members of the public will be permitted to address Council or a Committee of Council on matters falling within the jurisdiction and Charter of Council as outlined in the Local Government Act 1993.

All addresses must comply with Council's Public Access Forum Policy.

*Council Policy*

### 4.12 Questions to Councillors and employees

- 1 A Councillor:
  - a may, through the Chairperson, put a question to another Councillor; and
  - b may, through the General Manager, put a question to a Council employee.
- 2 A Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and in particular, sufficient notice to enable reference to be made to other persons or to documents.
- 3 The Councillor must put every such question directly, succinctly and without argument.

<sup>1</sup> "without notice" meaning the matter is not included on the Agenda.

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- 4 The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this Clause.

*Reg 249*

## PART 5 – DECLARATIONS OF CONFLICT OF INTERESTS

A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.

If you are unsure as to whether or not you have a conflict of interests in relation to a matter, you should consider these six points:

- 1 Do you have a personal interest in a matter you are officially involved with?
- 2 Is it likely you could be influenced by a personal interest in carrying out your public duty?
- 3 Would a reasonable person believe you could be so influenced?
- 4 What would be the public perception of whether or not you have a conflict of interests?
- 5 Do your personal interests conflict with your official role?
- 6 What steps do you need to take and that a reasonable person would expect you to take to appropriately manage any conflict of interests?

You must avoid or appropriately manage any conflict of interests. The onus is on each Councillor to identify any conflict of interests and take the appropriate action to manage the conflict in favour of their public duty.

Any conflict of interests must be managed to uphold the probity of Council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.

Private interests can be of two types: pecuniary or non-pecuniary.

*OLG C of C 2015 – Part 4.*

### 5.1 What is a pecuniary interest?

- 1 For the purposes of this Part, a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.
- 2 A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in Clause 5.7 of this Code.

*LGA 442*

### 5.2 Who has a pecuniary interest?

- 1 For the purposes of this Part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
  - a the person; or
  - b the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person; or
  - c a company or other body of which the person, or a nominee, partner or employer of the person, is a member.
- 2 However, a person is not taken to have a pecuniary interest in a matter as referred to in subclause 5.2 (1) (b) or (c) of this Code:
  - a if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body; or
  - b just because the person is a member of, or is employed by a Council or a statutory body or is employed by the crown; or
  - c just because the person is a member of, or a delegate of a Council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares or the company or body.

*LGA 443*

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### 5.3 Disclosure of pecuniary interests and attendance at meetings

- 1 A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- 2 The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
  - a at any time during which the matter is being considered or discussed by the Council or Committee; or
  - b at any time during which the Council or Committee is voting on any question in relation to the matter.
- 3 For the removal of doubt, a Councillor or a member of a Council Committee is not prevented by this Clause from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the Councillor or member has an interest in the matter of a kind referred to in Clause 5.7 of this Code – matters that don't have to be disclosed.
- 4 Subsections (1) and (2) do not apply to a Councillor who has a pecuniary interest in a matter that is being considered at a meeting, if:
  - a the matter is a proposal relating to:
    - i the making of a principal environmental planning instrument applying to the whole or a significant part of the Council's area; or
    - ii the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area; and
  - b the Councillor made a special disclosure under this section in relation to the interest before the commencement of the meeting.
- 5 The special disclosure of the pecuniary interest must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the Council and must:
  - a be in the form prescribed by the regulations; and
  - b contain the information required by the regulations.

LGA 451

### 5.4 What is a non-pecuniary interest?

- 1 Non-pecuniary interests are private or personal interests the Council Official has that do not amount to a pecuniary interest as defined in Clause 5.1 of this Code.
- 2 Non-pecuniary interests can be an actual or perceived interest where a reasonable and informed person would perceive a conflict exists. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- 3 The matter of a report to Council from the Conduct Review Committee/reviewer relates to the public duty of a Councillor or the General Manager. Therefore, there is no requirement for Councillors or the General Manager to disclose a conflict of interests in such a matter.
- 4 The political views of a Councillor do not constitute a private interest.

OLG C of C 2015 – Part 4 page 9

### 5.5 Types of non-pecuniary interests

There are three types of non-pecuniary conflicts of interest:

- 1 **Significant** – as a general rule a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:
  - a a relationship between a Council Official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household;

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- b other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship; or
- c an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.
- 2 **Less than significant** – matters not involving the issues identified in Clause 5.5 (1) of this Code.
- 3 **Political donations** – Councillors should take all reasonable steps to ascertain the source of any political contributions that directly benefit their election campaigns.  
A Councillor must declare a non-pecuniary conflict of interests where the Councillor or the Councillor's 'official agent' has received 'political contributions' or 'political donations', as the case may be, within the meaning of the Election Funding Act 1981 exceeding \$1,000 which directly benefit their campaign:
  - a from a political or campaign donor or related entity in the previous four years; and
  - b where the political or campaign donor or related entity has a matter before Council.

OLG C of C 2015 – Part 4 pages 9-10

### 5.6 Disclosure of non-pecuniary interests and attendance at meetings

- 1 A Councillor or a member of a Council Committee who has disclosed a **significant** non-pecuniary conflict of interests in accordance with Clause 5.5 of this Code in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered is required to disclose the nature of the interest to the meeting as soon as practicable.  
The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
  - a at any time during which the matter is being considered or discussed by the Council or Committee; or
  - b at any time during which the Council or Committee is voting on any question in relation to the matter.
- 2 A Councillor or a member of a Council Committee who has disclosed a **less than significant** non-pecuniary conflict of interests in accordance with Clause 5.5 of this Code in any matter with which the Council is concerned may determine that it does not require further action, and if so, must provide an explanation of why it is considered that the conflict does not require further action in the circumstances.
- 3 A Councillor or a member of a Council Committee who has disclosed that he/she or their official agents have received, in the previous four years, a political donation **exceeding \$1,000** that has directly benefited their campaign, from a donor who has a matter before Council, must disclose this fact to the meeting as soon as practicable.  
The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
  - a at any time during which the matter is being considered or discussed by the Council or Committee; or
  - b at any time during which the Council or Committee is voting on any question in relation to the matter.

This applies to all Councillors, regardless of whether they are independent Councillors or a member of a political group or party.
- 4 Where a Councillor or a member of a Council Committee or their official agents have received, in the previous four years, a political donation **under \$1,000** that has directly benefited their campaign, from a donor who has a matter before Council, it may give rise to a non-pecuniary conflict of interests. In such cases Councillors should consider the perceptions of influence that might be created and consider the six points at the commencement of Part 5 of this Code.  
If the Councillor or a member of a Council Committee determines that a non-pecuniary conflict of interests may exist, they need to consider whether or not the conflict of interests is significant as defined in Clause 5.5 (1) of this Code.
  - a If the conflict of interests is deemed significant the Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:



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- i at any time during which the matter is being considered or discussed by the Council or Committee; or
  - ii at any time during which the Council or Committee is voting on any question in relation to the matter.
- b If the conflict of interests is deemed less than significant it remains open for the Councillor or member to take additional steps to manage any perception of a conflict of interests.

This applies to all Councillors, regardless of whether they are independent Councillors or a member of a political group or party.

*OLG C of C 2015 Guidelines – Pgs 19/22*

### Written declarations of pecuniary interest

A Councillor who has a pecuniary interest or non-pecuniary interest in accordance with Clauses 5.3 (1), 5.6 (1) and (3) of this Code, in a matter being considered at a Council or Committee meeting must disclose the existence of the interest and also the nature of that interest.

Councillors are requested to make such a disclosure in writing and provide the written disclosure to the General Manager by 12 noon on the day of the meeting. A Councillor, having disclosed a pecuniary interest, must not be present at the meeting when the matter is being considered, discussed or voted on.

This requirement does not prevent a Councillor from disclosing a pecuniary interest at a Council or Committee meeting at which the matter is being considered.

*Council Protocol*

A Councillor with a pecuniary interest, and not capable of voting on the business before the Council, is regarded as being absent from the meeting for the purpose of determining whether or not a quorum is present.

*OLG Practice Note 16/2009 – Pg 29*

### Example 1: Club membership

A Councillor is a member of a club in a small community. The Councillor is very active in the running of the club. While not an office holder, he is well known to all club members.

The club has recently submitted a development application to the Council for a major extension of its facilities.

In this instance, there may be a public perception that the Councillor's activities with the club would make it difficult for the Councillor to view the matter before the Council as a representative of residents and ratepayers generally. This may meet the definition of a significant non-pecuniary conflict of interests.

If so, the Councillor should disclose their conflict of interests in the matter when it comes up for consideration. The Councillor must then refrain from participating in Council's discussion and voting on the matter. The Councillor must leave the room when the vote is being taken to ensure that the vote is not recorded in the negative.

*OLG C of C 2015 Guidelines – Pg 23*

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### Example 2: Club membership

A Councillor is a member of a local registered club. However, she is not active in the club or involved with the management of the club. In this situation, the Councillor merely enjoys the facilities of the club as a privilege of membership.

In this example, should a matter relating to the club arise at Council, it is appropriate that the Councillor informs the Council of her membership (ie declares a non-pecuniary conflict of interests that is less than significant). However, it is unlikely that her interest as a club member would influence her role as a Councillor representing the view of residents and ratepayers generally. Therefore, she could participate in the decision-making process.

In both situations, the Councillors have two different interests in the matters. The first is their interest as a Councillor representing residents and ratepayers generally; the second is as club members who are keen to see the club prosper and provide better facilities for its members. There is nothing wrong with a Councillor having community as well as civic interests, though there are times when these interests may be perceived as a significant conflict of interests.

The distinguishing features of examples 1 and 2 are that:

- The Councillor's interests as a club member in example 1 are likely to influence their role as a representative of residents and ratepayers generally. This would make it difficult for him to be impartial; and
- The public perception of a lack of impartiality would be stronger in the first example particularly given the size of the community and the visibility of the councillor in the club's activities.

If a Councillor is an office holder in a club or other organisation, the interest may constitute a pecuniary interest.

OLG C of C 2015 Guidelines – Pg 23

### Example 3: Political support

A local ratepayer has made a campaign donation to a group of local Councillors through their official agent in the last two (2) years. The ratepayer lodges a development application with Council to build a block of units on the land she owns. The development is controversial and receives a lot of media attention.

A potential conflict of interests could arise for a Councillor, or group of Councillors, when a campaign donor, who contributes financially to their election campaign, has a matter before the Council for determination. The conflict of interests arises even when a donation is made through the official agent.

Where the donation exceeds \$1,000 and has been donated within the last four (4) years, the Councillors must declare a non-pecuniary conflict of interests, disclose the nature of the interest and have no further involvement in the matter by absenting themselves and not taking part in any debate or voting on the matter in accordance with section 451(2) of the Act.

In the circumstances where a donation is less than \$1,000 or the donation is made over four (4) years ago, then the Councillors would still need to consider whether or not a reasonable and informed person could perceive that a conflict of interests exists and take the appropriate action.

The Councillors would also need to consider whether such a political donation gives rise to a reasonable perception of influence in relation to their vote.

If there is a conflict of interests then the Councillors would need to determine whether or not it is significant. If the Councillors had a close relationship with the donor, then it may be a significant non-pecuniary conflict of interests.

If the Councillors consider that there is a non-pecuniary conflict of interest, but it is minimal, then the Councillors would need to disclose the interest and its nature and provide an explanation of why further action is not required.

OLG C of C 2015 Guidelines – Pg 22

### 5.7 Interests that do not require disclosure

The following interests do not have to be disclosed for the purposes of Chapter 14 of the Local Government Act:

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

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- c an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this Part;
- d an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part;
- e an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not);
- f an interest of a member of a Council Committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee;
- g an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible uses of:
  - i land in which the person or a person, company or body referred to in Clause 5.2 (1)(b) or (c) of this Code has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise); or
  - ii land adjoining, adjacent to or in proximity to land referred to in subparagraph (i);
 if the person or person, company or body referred to in Clause 5.2 (1)(b) or (c) of this Code would by reason of the proprietary interest have a pecuniary interest in the proposal;
- h an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a Company that does not exceed ten per cent of the voting rights in the company;
- i an interest of a person arising from the proposed making by the Council of an agreement between the Council and a Corporation, Association or Partnership, being a Corporation, Association or Partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a Director) of the Corporation or is a member (but not a member of the Committee) of the Association or is a partner of the Partnership;
- j an interest of a person arising from the making by the Council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area:
  - i the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation;
  - ii security for damage to footpaths or roads;
  - iii any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council or by or under any contract;
- k an interest relating to the payment of fees to Councillors (including the Lord Mayor and Deputy Lord Mayor);
- l an interest relating to the payment of expenses and the provision of facilities to Councillors (including the Lord Mayor and Deputy Lord Mayor) in accordance with a policy under section 252 of the Local Government Act;
- m an interest relating to an election to the office of Lord Mayor arising from the fact that a fee for the following twelve (12) months has been determined for the Office of Lord Mayor;
- n an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person;
- o an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor or member of a Council Committee;
- p an interest arising from appointment of a Councillor to a body as representative or delegate of the Council, whether or not a fee or other recompense is payable to the representative or delegate.

LGA 448



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### 5.8 General disclosure

A general notice given to the General Manager in writing by a Councillor or a member of a Council Committee to the effect that the Councillor or member, or the Councillor's or member's spouse, de facto partner or relative, is:

- a a member, or in the employment, of a specified company or other body; or
- b a partner, or in the employment, of a specified person;

is, unless and until the notice is withdrawn, sufficient disclosure of the Councillor's or member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the Council or Council Committee after the date of the notice.

LGA 454

### 5.9 Disclosure by advisor

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

LGA 456

### 5.10 Circumstances where disclosure rules are not breached

A person does not breach Clauses 5.3 and 5.9 of this Code if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

LGA 457

### 5.11 Disclosure to be recorded in the minutes

A disclosure made at a meeting of Council or a Council Committee must be recorded in the minutes of the meeting.

LGA 453

## PART 6 – MOTIONS

### 6.1 Lodgement of notices of motion

A Councillor may lodge a Notice of Motion for inclusion on the agenda/business paper for a forthcoming ordinary or extraordinary meeting of the Council:

- a A Notice of Motion for an Ordinary Council meeting must be submitted in writing and be received by the General Manager no later than 5.00 pm thirteen (13) calendar days prior to the scheduled Ordinary Council meeting date.
- b A Notice of Motion for an Extraordinary Council meeting must be submitted in writing and be received by the General Manager no later than 5.00 pm five (5) calendar days prior to the proposed meeting day. In the event that the business is of an urgent nature, as determined by the Lord Mayor or General Manager, no notice is required.
- c The Notice of Motion must be signed by at least one (1) Councillor. A Councillor submitting a Notice of Motion may include in the Notice of Motion the names of other Councillors who have indicated support for the Notice of Motion. This will serve to indicate that an item has broader approval and support to allow debate to occur. It does not bind any Councillor to voting in favour of the motion.

Council Protocol

- d If requested by the Councillor who has lodged a Notice of Motion, the General Manager may provide factual information on the Notice of Motion to assist in discussion of the motion.

OLG Circular 10-10

### 6.2 Notice of motion – absence of mover

In the absence of a Councillor who has placed a Notice of Motion on the agenda for a meeting of Council:

- a any other Councillor may move the motion at the meeting; or

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- b the Chairperson may defer the motion until the next Council meeting at which such motion can be considered.

*Reg 245*

### 6.3 Formulation of motions

- 1 A motion is a proposal put forward by a Councillor or member of a Committee calling for a specific action to be taken or a decision to be made on a particular matter before the meeting.
- 2 A motion should be simple, easy to understand and specific in its intention.
- 3 Motions should be well structured and if it involves a number of different aspects, there should be different parts to the motion.
- 4 If a motion is complex in its wording and intent, the motion must be submitted in writing and made available to other Councillors, the General Manager and Minute taker.

*DMB Pg 13 and Council Protocol*

- 5 In submitting a Notice of Motion, Councillors must balance their civic responsibility for representing the interests of their community with their obligation to use Council's resources effectively and efficiently.

*OLG Practice Note 16/2009 – Pg 33*

### 6.4 Motions to be seconded

A motion or an amendment cannot be debated unless or until it has been seconded.

*Reg 246*

This clause is subject to the following clauses of this Code where seconding is not required:

Clause	Type of Motion
4.5(4)	Motion for extension of meeting time beyond 10 pm.
4.8(2)	Lord Mayoral Minute, put to the meeting without notice, where the adoption of the minute is moved by the Lord Mayor (as Chairperson)
7.2	Point of Order
7.3(4)	Motion of dissent
7.4(2)	Motion to close debate on a Motion or Amendment

*Council protocol*

### 6.5 Speaking to motions

- 1 A Councillor, who during a debate at a meeting of Council moves an original motion, has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment. Remarks in reply must be limited to discussion of issues raised in debate and no new material may be introduced.

*Council Resolution – Min 373 of 27/10/03*

- 2 A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

*Reg 250 (1)-(2)*

- 3 A Councillor who moves an original motion may exercise his or her right to speak to the motion at any point in the debate, prior to the right of reply.

*Council Resolution – Min 7 of 25/2/02*

- 4 A Councillor must not, without the consent of Council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time. However, the Chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on that specific motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

*Reg 250 (3)*

Such statements or explanations will be limited to no longer than three (3) minutes unless Council's consent is given for a specified extension of time.

*Council Resolution – Min 8 of 28/1/14*

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The Chair may accept a motion that an additional time of up to five (5) minutes be given to the speaker to continue debate, with the number of minutes specified by the Councillor moving the motion. The Chair may accept a further Motion for an additional extension of time, limited to one (1) minute only, to permit the Councillor to conclude their debate on an item.

*Council Protocol*

### 6.6 Varying a motion

- 1 A Councillor may seek to vary a motion by:
  - a obtaining the consent of the mover and seconder of the motion; or
  - b proposing an amendment to the motion.
- 2 If a Councillor proposes a variation to a motion, the Chairperson will seek the consent of the mover and seconder of the motion to have the variation included in the motion. If there is no objection, the proposed variation is adopted into the motion and the minutes will include the name of the Councillor proposing the variation.
- 3 If there is an objection, the proposed variation must be dealt with as an amendment and seconded and voted on accordingly.
- 4 If the variation is proposed by the seconder to the original motion, but not accepted by the mover of the motion, then a new seconder should be sought for the original motion. This is consistent with the common law rule that a seconder to a motion cannot move an amendment but enables a seconder to move a variation.

*Council Protocol*

### 6.7 Amendments to motions

- 1 An amendment may propose that some words be omitted from the motion or added to the motion but it should not contradict the motion.
- 2 Amendments that create a direct negative are not permissible. The proper means of opposing a motion is to vote against it.
- 3 Amendments cannot be moved until the original motion has been seconded.
- 4 Amendments must be moved and seconded.
- 5 The amendment must be moved before debate on the motion has been concluded and the right of reply of the mover of the motion has been exercised.
- 6 It is not in order to propose an amendment which is, in effect, the same as one already rejected or which reserves the intention of one already adopted.
- 7 Not more than one (1) motion and one (1) amendment can be before Council at any one time.
- 8 Once an amendment has been moved and seconded, it cannot be withdrawn without the consent of the meeting.

*DMB*

### 6.8 Subsequent amendments to motions

If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before Council at any one time.

*Reg 247*

### 6.9 Foreshadowed motions and foreshadowed amendments

- 1 a Foreshadowed Amendments – once an amendment has been moved and seconded and during debate a Councillor or Committee member may 'foreshadow' an amendment, without a seconder, proposed to be moved following consideration of the first amendment.  
 There is no limit to the number of foreshadowed amendments before Council at any time. However, no discussion on foreshadowed amendments can take place until the previous amendment has been dealt with.
- b Foreshadowed Motions – a foreshadowed motion can be proposed by a Councillor or Committee member, without a seconder, during debate on the original motion. The foreshadowed motion will

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only be considered if the original motion is lost or withdrawn and once moved and seconded. If the original motion is carried, the foreshadowed motion lapses.

- 2 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they were notified however foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.
- 3 Foreshadowed motions and foreshadowed amendments are required to be moved and seconded before debate can commence.

*DMB and Council Protocol*

### 6.10 Splitting motions for debate

Where Council is considering a report of a complex nature or contains multiple recommendations a Councillor may move a Procedural Motion that the motions before the meeting be split and determined either in groups or individually. In this instance Council will record the names of the Councillors supporting and those opposing each of the split motions however only one Minute number for the report will be included in the Council Minutes.

*Council Protocol*

## PART 7 – PROCEDURAL MOTIONS

### 7.1 General procedure

- 1 A procedural motion is a motion that refers to the conduct of a meeting.
- 2 Procedural motions are not subject to the notice of motion requirements referred to in clause 6.1.
- 3 A procedural motion requires a seconder unless stated otherwise in this Code.
- 4 There is no debate on a procedural motion unless stated otherwise in this Code.
- 5 A procedural motion has precedence over substantive motions and must be put to the meeting for a decision in accordance with this clause.

*Council Protocol*

### 7.2 Point of order

- 1 A Councillor may draw the attention of the Chairperson to some irregularity in the meeting proceedings.
- 2 The Councillor does this by raising a 'point of order'.
- 3 A point of order does not require a seconder and must be raised immediately and the speaker at the time may be interrupted.
- 4 The Chairperson must suspend business before the meeting to allow the Councillor raising the point of order to state the meeting procedure/s he/she believes have been infringed.
- 5 The Chairperson will subsequently either uphold the point of order or overrule it and the business before the meeting can then continue.

*DMB Pgs 16 & 53 and Council Protocol*

### 7.3 Motions of dissent

- 1 A Councillor can, without notice, move to dissent from the ruling of the Chairperson on a point of order. If that happens, the Chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 2 If a motion of dissent is passed, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 3 Despite Clause 6.5 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.
- 4 A Motion of Dissent does not require a seconder.

*Reg 248*

*Council Protocol*

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### 7.4 Limitation as to number of speeches

- 1 Despite Clause 6.5 (1) and (2) of this Code, 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.
- 2 The Chairperson must immediately put to the vote, without debate, a motion moved under subclause (1). A seconder is not required for such a motion.
- 3 If a motion that the original motion or an amendment be now put is passed, the Chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under Clause 6.5 (1) of this Code.
- 4 If a motion that the original motion or amendment be now put is rejected, the Chairperson must allow the debate on the original motion or the amendment to be resumed.

*Reg 250 (4) – (7)*

Table of Procedural Motions	Secunder	Clause
• Adjourn a meeting	YES	9.1
• Call of the agenda	YES	4.5(1) and (2)
• Extend a speaker's speech time	YES	6.5
• Extend meeting time	NO	4.5(4)
• Lay Motion on the Table, take a motion off the table	YES	4.5(5)
• Limit the number of speeches (motion or amendment be now put)	NO	7.4
• Motion of dissent	NO	7.3
• Point of order	NO	7.2
• Split motions for debate	YES	6.10
• Suspend standing orders	YES	4.5(1)

## PART 8 – ORDER AT MEETINGS

### 8.1 Need for order

- 1 The Chairperson, whose authority is derived from the meeting itself, is ordinarily responsible for preserving order at the meeting. In doing so the Chairperson must be impartial and consistent.
- 2 The rationale for the need for order to be preserved is to give all persons entitled a reasonable opportunity of participating in the discussion and voting on matters before the meeting.
- 3 It is the role of the Chairperson to ensure that the proceedings are conducted in a proper manner and that the 'sense of the meeting' is properly ascertained with regard to any question which is properly before the meeting.
- 4 Councillors, Council staff and other persons attending the meeting are required to observe the Code of Meeting Practice and Code of Conduct at all times.
- 5 Members of the public gallery are:
  - a not permitted to interrupt meeting procedures or to engage in any disorderly conduct;
  - b not permitted to address or approach Councillors during the meeting, unless addressing Council via the Public Access Forum;

*DMB Pgs 36-37*



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- c not permitted to bring any items which are deemed to potentially cause discomfort or a safety risk to Councillors, Council staff or other members of the gallery;
- d required to switch all mobile phones to 'off' or 'silent' during the course of the meeting;
- e not permitted to take any food or drink into the Council Chambers.

*Council Protocol*

### 8.2 Questions of order

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

*Reg 255*

### 8.3 Acts of disorder

- 1 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
  - b assaults or threatens to assault another Councillor or person present at the meeting; or
  - c moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or Committee, or addresses or attempts to address the Council or Committee on such a motion, amendment or matter; or
  - d insults or makes personal reflections on or imputes improper motives to any other Councillor; or
  - e says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt.
- 2 The Chairperson may require a Councillor:
  - a to apologise without reservation for an act of disorder referred to in subclause (1) (a) or (b); or
  - b to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation; or
  - c to retract and apologise without reservation for an act of disorder referred to in subclauses (1) (d) or (e).
- 3 A Councillor may, as provided by section 10 (2) (a) or (b) of the Local Government Act, be expelled from a meeting of a Council by the Chairperson for having failed to comply with a requirement under subclause (2). The expulsion of a Councillor from the meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder concerned.
- 4 The Chairperson may conclude that a Councillor commits an 'act of disorder' pursuant to this Clause if, for example, the Councillor:
  - a insults or makes personal reflections on or imputes improper motives to any member of staff or a member of the public; or
  - b repeatedly ignores a request by the Chairperson to resume his or her seat; or
  - c brings up matters which are irrelevant or extraneous to the matter being discussed or are of a superfluous nature; or
  - d engages in tedious repetition; or
  - e converses aloud, repeatedly interjects or makes any noise or other disturbance whilst any other Councillor is speaking; or
  - f shows deliberate disrespect towards the Chair; or

*Reg 256*

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- g refuses or fails, in any case, to withdraw and apologise, without reservation, for an 'act of disorder' when required to do so by the Chairperson.

*DMB Pgs 38-39*

### 8.4 Disorder at meetings – adjournment/expulsion

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

*Reg 257*

### 8.5 Effect of expulsion

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 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.

*LGA 10 (2) and DMB Pg 40*

### 8.6 Warning to Councillors

If the Chairperson is of the view that the ongoing behaviour of a Councillor is disruptive to the good order of the meeting, the Chairperson:

- a will warn the Councillor that he/she could face a motion to authorise removal from the meeting if he/she continues to breach the Code of Meeting Practice; and
- b if a further breach occurs, seek the views of the meeting as to the removal of the Councillor.

*Council Protocol*

The Regulations do not specifically refer to the need for a 'warning', although it is clear that the power of expulsion may only be exercised after the Councillor in question has been given an opportunity of apologising without reservation and has failed to do so. In that sense, a 'warning' is still required.

*DMB Pg 40*

### 8.7 Power to remove persons from Council meeting

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

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

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

*Reg 258*



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### 8.8 Defamatory statements

The NSW Ombudsman publication Better Service and Communication for Councils provides information about defamation. It states:

"A statement may be defamatory of a person if it is likely to cause an ordinary reasonable member of the community to think less of a person or to shun or avoid the person."

Councillors acting within their official capacity at meetings of Council or Council Committees may have a defence of 'qualified privilege' to actions in defamation. This recognises that you may need to speak freely and publicly in carrying out your duties.

However qualified privilege needs to be treated with great caution. It only covers statements made at a Council or Committee meeting when you are carrying out your duties and on business relevant to the Council. Statements also need to be made with good intentions, not malice.

*Council Protocol*

A statement made outside a Council or Committee meeting will not be protected by qualified privilege, but may be protected under the Defamation Act 2005.

Councillors need to be guided by their own legal advice on defamation issues.

*OLG Practice Note 16/2009 – Pgs 19/20*

## PART 9 – ADJOURNMENT OF MEETINGS

### 9.1 Motion to adjourn meeting

- 1 An adjournment of a meeting means a postponement of a meeting. No meeting can be postponed without first being held. Thus in order to postpone a meeting, the meeting must first be held and then adjourned.
- 2 A Councillor may move a procedural motion 'that the meeting be adjourned'.
- 3 This has the effect of stopping further debate for the time being.
- 4 The motion and any subsequent amendment must be seconded before being put to the vote.
- 5 Discussion can take place in order.
- 6 The mover of the motion must wait until the speaker/s has finished before speaking to the motion.
- 7 No further debate on the motion is permitted.

*DMB Pgs 21 & 52*

### 9.2 Amendment to adjourn meeting motion

Amendments to the motion are permitted, but only to the extent that they relate to the time, place and date of the adjourned meeting.

*DMB Pg 52*

### 9.3 Reconvening an adjourned meeting

- 1 The notice of meeting provisions do not apply to a reconvened meeting. However as a matter of practicality it is desirable to give notice of the date, time and place of the adjourned meeting.
- 2 Once a date and time have been fixed and notice of the adjourned meeting has been given, there is no power to re-fix the date and time of the adjourned meeting.
- 3 An adjourned meeting is not a new meeting but, when it is resumed, simply a continuation of the original meeting.
- 4 Only business already on the Agenda for the adjourned meeting can be dealt with at a reconvened meeting except for business of great urgency raised in accordance with Clause 4.7 (1) of this Code.

*DMB Pgs 21-22*

*OLG Practice Note 16/2009 – Pg 31*

## PART 10 – CLOSED MEETINGS

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### 10.1 Motion to close part of a meeting

A Council, or a Committee of Council of which all the members are Councillors, may close to the public so much of the meeting as comprises:

- a the discussion of any of the matters listed in Clause 10.2 of this Code; or
- b the receipt or discussion of any of the information so listed.

LGA 10A (1)

### 10.2 Grounds to close a meeting or part of a meeting

1 The matters and information referred to in Clause 10.1 of this Code are the following:

- a personal 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:
  - prejudice the commercial position of the person who supplied it; or
  - confer a commercial advantage on a competitor of the Council; or
  - 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; and
- i alleged contraventions of any Code of Conduct requirements applicable under section 440.

2 Council, or a Committee of the Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

LGA 10A (2)-(3)

### 10.3 Limitations to closing meetings

A meeting is not to remain closed during the discussion of anything referred to in Clause 10.2 (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.

LGA 10B (1)

### 10.4 Discussion of legal matters

A meeting is not to be closed during the receipt and consideration of information or advice referred to in Clause 10.2 (1) (g) of this Code unless the advice concerns legal matters that:

- a are substantial issues relating to a matter in which the Council or Committee is involved; and
- b are clearly identified in the advice; and
- c are fully discussed in that advice.

LGA 10B (2)

### 10.5 Motion to close other parts of a meeting

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 10.2 (2) of this Code), 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 10.2 (1) of this Code).

LGA 10 B (3)

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### 10.6 Matters of public interest

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:
  - cause embarrassment to the Council or Committee concerned, or to Councillors or to employees of the Council; or
  - cause a loss of confidence in the Council or Committee.

*LGA 10B (4)*

### 10.7 Departmental guidelines

In deciding whether part of a meeting is to be closed to the public, the Council or Committee concerned must have regard to any relevant guidelines issued by the Director General.

*LGA 10B (5)*

### 10.8 Notice of closure not required in urgent cases

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

- a it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in Clause 10.2 (1) of this Code; and
- b the Council or Committee, after considering any representations made under Clause 10.9 of this Code, resolves that further discussion of the matter:
  - i should not be deferred (because of the urgency of the matter); and
  - ii should take place in a part of the meeting that is closed to the public.

*LGA 10C*

### 10.9 Representations by members of the public before a meeting is closed

- 1 A Council, or a Committee of a Council of which all members are Councillors, 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.

*LGA 10A (4)*

- 2 A representation at a Council meeting by a member of the public as to whether a part of a meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.

- 3 That period is as fixed in Clause 10.9 (4) of this Code. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.

*Reg 252*

- 4 A maximum period of ten minutes has been allocated by Council, or a Committee of Council, to allow for the verbal receipt of representations as to whether a part of a meeting should be closed to the public, immediately after the motion to close the part of the meeting is moved and seconded. Individual verbal presentations can only be made for a maximum of five (5) minutes.

*Council Resolution – Min 94 of 14/4/98*

### 10.10 Minutes to specify grounds for closing meetings

- 1 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.
- 2 The grounds must specify the following:
  - a the relevant provision of Clause 10.2 (1) of this Code;
  - 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

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resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

LGA 10D

A Motion could look like:

"Moved Councillor X, seconded Councillor Y, that the meeting is closed during the discussion of the matter 'Item 1: Annual Tenders for Goods and Services' in accordance with 10.2 (1) (c) of this Code on the basis that:

- the discussion of the matter in an open meeting could prejudice the commercial position of tenderers; and
- on balance, the public interest in preserving the confidentiality of commercial information supplied by tenderers outweighs the public interest in openness and transparency in Council decision-making by discussing the matter in an open meeting."

OLG Practice Note 16/2009 – Pg 45

### 10.11 Public attendance at closed council meeting

- 1 Council is able to invite members of the public to address Closed Council meetings on specific matters where it is necessary for the provision of advice. Invited members would be required to leave the meeting prior to voting being undertaken on the matter.
- 2 In undertaking such action Council needs to be mindful that invitations may affect its appearance of impartiality and improper conduct in a matter.
- 3 All persons invited to a Closed Council meeting in accordance with this Clause are subject to the non-disclosure provisions of section 664 of the Act.

OLG Practice Note 16/2009 - Pg 47

### 10.12 Conclusion of closed meeting

At the conclusion of business in Closed Council, Council must resolve that the meeting be open to the public.

OLG Practice Note 16/2009 - Pg 47

### 10.13 Resolutions to be made public

If a Council passes a resolution during a meeting, or part of a meeting, that is closed to the public, the Chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended.

Reg 253

### 10.14 Adoption of closed council resolutions in open council

Council is not required to re-make the resolutions made in Closed Council when reverting back to Open Council.

The only matters a Council would adopt are the recommendations made by the Committee of the Whole or recommendations of another Council Committee.

OLG Practice Note 16/2009 - Pg 46

## PART 11 – VOTING

### 11.1 Voting entitlements of Chairperson and Councillors

- 1 Each Councillor is entitled to one vote.
- 2 However, the person presiding at a meeting of the Council has, in the event of an equality of votes, a second or casting vote.

LGA 370

### 11.2 Method of voting at Council meetings

Voting at a Council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices, by show of hands or such other electronic means as determined by Council). However, the Council may resolve that the voting in any election by Councillors for Deputy Mayor is to be by secret ballot.

Reg 251 (5)

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### 11.3 Failure to vote on a motion

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

*Reg 251 (1)*

### 11.4 Record of voting

- 1 For all motions on the agenda and business paper Council will record the names of those Councillors who supported the motion and those who opposed (or are taken to have opposed) the motion with the exception of Procedural Motions.
- 2 This Clause extends to a meeting or part of a meeting that is closed to the public.
- 3 Council will record all voting in a voting register available on its website at [www.wollongong.nsw.gov.au](http://www.wollongong.nsw.gov.au).

*Council Protocol and LGA 375A*

## PART 12 – DECISIONS OF COUNCIL

### 12.1 What constitutes a decision of Council

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

*LGA 371*

### 12.2 Invalidation of Council and Committee decisions

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

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

*LGA 374*

### 12.3 Rescinding or altering Council resolutions

The intention here is that the later resolution replaces the earlier one.

*OLG Practice Note 16/2009 – Pg 38*

- 1 A resolution passed by a Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with regulations made under section 360 of the Local Government Act and Council's Code of Meeting Practice.

**Note – The effect of this is that items are not able to be 'recommitted'.**

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

**Note – Council is not able to 'recommit' an item at the same Council meeting at which the resolution was carried.**

**The only means of doing this is to lodge a Rescission Motion, signed by three Councillors and for Council to resolve to deal with the Rescission Motion at that meeting.**

- 3 If a motion has been negated (*lost*) by a Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with Council's Code of Meeting Practice.
- 4 A Notice of Motion to alter or rescind a resolution and a Notice of Motion which has the same effect as a motion which has been negated by the Council, must be signed by three (3) Councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was negated, as the case may be.



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- 5 If a motion to alter or rescind a resolution has been negated or if a motion which has the same effect as a previously negated motion is negated, no similar motion may be brought forward within three (3) months. This Clause may not be evaded by substituting a motion differently worded but in principle the same.
- 6 A motion to which this section applies may be moved on the report of a Committee of the Council and any such report must be recorded in the minutes of the meeting of the Council.
- 7 The provisions of this section concerning negated motions do not apply to motions of adjournment.

LGA 372

### 12.4 Rescinding or altering part of a Council resolution

While not specifically covered in section 372 of the Act, it would appear that a Council could rescind part of a resolution (without rescinding the whole resolution). This view would be subject to any determination of a Court.

OLG Practice Note 16/2009 - Pg 41

### 12.5 Dealing with rescission motions

Resolutions may be rescinded or altered in accordance with the following guidelines:

- 1 A 'Notice of Motion to Rescind' given at the same Council or Committee meeting at which the original resolution proposed to be rescinded was carried will be –
  - a In writing addressed to the General Manager and be signed by at least three (3) Councillors.
  - b Handed to the General Manager during the course of the meeting.
  - c Any such 'Notice of Motion to Rescind' will, when handed to the General Manager, be examined by the General Manager who will assess whether it is in order having regard to this Clause.
  - d Where any such 'Notice of Motion to Rescind' is considered by the General Manager to be in order in terms of this Clause, the Chairperson will as soon as practicable during the course of the meeting announce that such Notice of Motion has been received. In doing so, the Chairperson will invite special attention to the resolution proposed to be rescinded and will seek the leave of Council or the Committee, as the case may be, to have the full contents of the document read to the meeting by the General Manager.
  - e Consideration will then be given to and a determination made in respect of the question as to whether the 'Notice of Motion to Rescind' is to be dealt with at the current meeting or the next Council meeting.
- 2 A 'Notice of Motion to Rescind' lodged after the meeting at which the original resolution proposed to be rescinded was carried, will in all instances be considered at the next meeting of Council. In such circumstances no further action to carry the original resolution into effect may be taken (unless already implemented) until the Notice of Rescission has been dealt with.

Council Resolution - Min 178 of 28/6/06

## PART 13 – COMMITTEES OF COUNCIL

### 13.1 Committee of Council

A Council may resolve itself into a Committee to consider any matter before the Council.

LGA 373

This refers to a 'Committee of the Whole' which is a Committee of Council comprised of all Councillors.

### 13.2 Committee of the Whole

- 1 This Policy applies to the conduct of a meeting of Council when in 'Committee of the Whole', except the provision limiting the number and duration of speeches.
- 2 The General Manager or Public Officer is responsible for reporting to the Council any recommendations from the 'Committee of the Whole'.
- 3 Any recommendations of the Committee must be recorded in the Council's minutes. The Council must move a motion to adopt the report of the Committee.

Reg 259

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### 13.3 Council may establish committees

- 1 A Council may by resolution establish such Committees as it considers necessary.
- 2 Such a Committee is to consist of the Lord Mayor and such other Councillors as are elected by the Councillors or appointed by the Council.
- 3 In electing Committee members, a Councillor may be nominated or elected in his or her absence.  
*OLG Practice Note 16/2009 – Pg 53*
- 4 The quorum for a meeting of such a Committee is to be –
  - a such number of members as the Council decides; or
  - b if the Council has not decided a number – a majority of the members of the Committee.  
*Reg 260*
- 5 If a Council Committee consists of Councillors only, the relevant meeting provisions of the Local Government Act, the Regulation and this Code of Meeting Practice govern its procedure.  
*OLG Practice Note 16/2009 – Pg 54*

**Note** – In almost all cases, reference to Council Committees in the Act specifically state, 'a Committee of which all the members are Councillors'. These can be 'Committees of the Whole' (that is all Councillors including the Lord Mayor only), or a Committee established under Clause 260 of the Reg (that is the Lord Mayor and some Councillors only).

Sections 355(b) and 376(2) of the Act refer to Committees whose members include people who are not Councillors.  
*OLG Practice Note 16/2009 – Pg 53*

### 13.4 Functions of committees

A Council must specify the functions of each of its Committees when the Committee is established, but may from time to time amend those functions.  
*Reg 261*

Committees of Council comprised of Councillors only may have specific functions delegated to them by Council. Council may also be supported by Liaison and Advisory Committees which comprise Councillor and external membership and act in an advisory capacity.  
*Council Protocol*

### 13.5 Notice of committee meetings to be given

- 1 The General Manager of the Council must send to each Councillor, at least three (3) days before each meeting of the Committee, a notice specifying:
  - a the time and place at which and the date on which the meeting is to be held; and
  - b the business proposed to be transacted at the meeting.
- 2 However, notice of less than three (3) days may be given of a Committee meeting called in an emergency.  
*Reg 262*

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

- 1 A Councillor who is not a member of a Committee of a Council is entitled to attend and speak at a meeting of the Committee.
- 2 However, the Councillor is not entitled:
  - a to give notice of business for inclusion in the agenda for the meeting; or
  - b to move or second a motion at the meeting; or
  - c to vote at the meeting.  
*Reg 263*

### 13.7 Chairperson and Deputy Chairperson of Committees

- 1 The Chairperson of each Committee of the Council must be:
  - a the Lord Mayor; or

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- b if the Lord Mayor does not wish to be the Chairperson of a Committee – a member of the Committee elected by the Council; or
  - c if the Council does not elect such a member – a member of the Committee elected by the Committee.
- 2 Council may elect a member of a Committee of the Council as Deputy Chairperson of the Committee. If the Council does not elect a Deputy Chairperson of such a Committee, the Committee may elect a Deputy Chairperson.
- 3 If neither the Chairperson nor the Deputy Chairperson of a Committee of 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.
- 4 The Chairperson is to preside at a meeting of a Committee of the Council. If the Chairperson is unable or unwilling to preside, the Deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the Deputy Chairperson is able or willing to preside the acting Chairperson is to preside at the meeting.

*Reg 267*

### 13.8 Voting procedure in committees

- 1 Subject to subclause (3), each Committee of the Council may regulate its own procedure.
- 2 Without limiting subclause (1), a Committee of the Council (consisting of Councillors only) may decide that, whenever the voting on a motion put to a meeting of the Committee is equal, the Chairperson of the Committee is to have a casting vote as well as an original vote. Without such a decision of the Committee, a casting vote cannot be exercised by the Chairperson.
- 3 Voting at a Committee meeting is to be by Open means (such as on the voices, by show of hands or such other electronic means as determined by Council).
- 4 For all motions and recommendations on a Committee agenda and business paper the names of those Councillors who supported the motion and those who opposed (or are taken to have opposed) the motion will be recorded.

*Reg 265*

This Clause extends to a Committee meeting or part of a Committee meeting that is closed to the public.

*Council Protocol and LGA 375A*

### 13.9 Absence from committee meetings

- 1 A member (other than the Lord Mayor) ceases to be a member of a Committee if the 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 (beginning 1 July and ending 30 June) without having given to the Committee acceptable reasons for the member's absences.
- 2 Subclause (1) does not apply if all of the members of the Council are members of the Committee.

*Reg 268*

### 13.10 Reports of committees

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

*Reg 269*

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### 13.11 Disorder in committee meetings

The provisions of this Code relating to the maintenance of order in Council meetings apply to meetings of Committees of the Council in the same way as they apply to meetings of the Council.

*Reg 270*

### 13.12 Certain persons may be expelled from committee meetings

- 1 If a meeting or part of a meeting of a Committee of a Council is closed to the public in accordance with Clause 10.1 of this Code, any person who is not a Councillor may be expelled from the meeting as provided by Clause 2.7 (2) of this Code.
- 2 If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer or any person authorised for the purpose by the Council, Committee or person presiding, may, by using only such force as is necessary, remove the first mentioned person from that place and, if necessary, restrain that person from re-entering that place.

*Reg 271*

### 13.13 Committees to keep minutes

- 1 Each Committee of a Council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular, a Committee must ensure that the following matters are recorded in the Committee's minutes –
  - a details of each motion moved at a meeting and of any amendments moved to it;
  - b the names of the mover and seconder of the motion or amendment;
  - c whether the motion or amendment is passed or lost;
  - d the names of the Councillors who supported the motion and those who opposed (or are taken to have opposed) the motion.
- 2 As soon as the minutes of an earlier meeting of a Committee of the Council have been confirmed at a later meeting of the Committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.
- 3 There is nothing to stop a Council from considering and adopting the recommendations of a Committee before the Committee's minutes are confirmed.

*Reg 266*

*Council Protocol*

*Reg 266*

*OLG Practice Note 16/2009 – Pg 56*

## PART 14 – MINUTES AND ACCESS TO INFORMATION

### 14.1 Minutes of council meetings

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

*LGA 375*

### 14.2 Matters to be included in the minutes of council meetings

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 the seconder of each motion or amendment;
- c whether the motion or amendment is passed or lost;
- d the circumstances and reasons relating to the absence of a quorum together with the names of the councillors present;

*Reg 254 (a)-(c)*

*Reg 233 (3)*



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- e the dissenting vote of a councillor, if requested;  
*Reg 251 (2)*
- f the names of the councillors who supported the motion and those who opposed (or are taken to have opposed) the motion;  
*Council Protocol and Reg 251 (4)*
- g the grounds for closing part of a meeting to the public;  
*LGA Sec10D*
- h the report of a Council committee leading to a rescission or alteration motion;  
*LGA 372 (6)*
- i the disclosure to a meeting by a councillor of a pecuniary interest;  
*LGA 453*
- j a report of the proceedings of the committee of the whole, including any recommendations of the committee;  
*Reg 259 (3)*
- k sufficient detail to indicate the nature of any resolution made in a closed part of a meeting.  
*OLG Practice Note 16/2009 – Pg 45*

### 14.3 Recording of Council and committee meetings

- 1 A person may record the proceedings of a meeting of the Council or a Committee of the Council only with the authority of the Council or Committee.
- 2 A person may, as provided by Clause 2.7 (2) of this Code, be expelled from a meeting of a Council or a Committee of a Council by the Chairperson for using or having used a recording device in contravention of this Clause.
- 3 If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and if necessary restrain that person from re-entering that place.
- 4 In this Clause, recording includes audio or visual recording.  
*Reg 273*
- 5 Video and audio of full Council meetings will be streamed live through Council's website.
- 6 Copies of the video and audio recording of full Council meetings will be made available to the public for viewing on Council's website, as soon as practicable following the date of a meeting.  
*Council Protocol*

### 14.4 Inspection of the minutes of a Council or committee meeting

- 1 An inspection of the minutes of a Council or Committee of a Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes.
- 2 The General Manager must ensure that the minutes of the Council and any minutes of a Committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.  
*Reg 272*

**Note** – The Government Information (Public Access) Act 2009 confers a right (restricted in the case of closed parts of meetings) to inspect the minutes of a meeting of Council or Committee of a Council.

The Minutes of a meeting of Council or a Committee of Council (in which all members are Councillors) will be made available on Council's website at [www.wollongong.nsw.gov.au](http://www.wollongong.nsw.gov.au) as soon as practicable.

### 14.5 Disclosure and misuse of information

- 1 A person must not disclose any information obtained in connection with the administration or execution of the Local Government Act unless that disclosure is made:
  - a with the consent of the person from whom the information was obtained; or
  - b in connection with the administration or execution of the Local Government Act; or



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- c for the purposes of any legal proceedings arising out of the Local Government Act or of any report of any such proceedings; or
  - d in accordance with a requirement imposed under the Ombudsman Act, 1974 or the Government Information (Public Access) Act 2009; or
  - e with other lawful excuse.
- LGA 664*
- 2 In particular, if part of a meeting of a Council or a Committee of a Council is closed to the public in accordance with Part 10 of this Code, a person must not, without the authority of the Council or the Committee, disclose (otherwise than to the Council or a Councillor of the Council) information with respect to the discussion at, or the business of, the meeting except where:
- a the report is a report of a Committee of Council which has been presented to the Council; or
  - b any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with Government Information (Public Access) Act 2009; or
- LGA 664*
- c disclosure is made in circumstances prescribed by the Regulations. This includes any disclosure made with the intention of enabling the Minister or the Director General to properly exercise the functions conferred or imposed on them by or under the Act.
- Reg 412*
- 3 A person acting in the administration or execution of the Local Government Act must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known, for the purpose of gaining either directly or indirectly a financial advantage for the person, the person's spouse or de facto partner or a relative of the person.
- 4 A person acting in the administration or execution of the Local Government Act, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person, influence:
- a the determination of an application for an approval; or
  - b the giving of an order.
- LGA 664*

## PART 15 – CUSTODY AND USE OF COUNCIL SEAL

- 1 The seal of Council must be kept by the Lord Mayor or the General Manager, as the Council determines.
- 2 The seal of a Council may be affixed to a document only in the presence of:
  - a the Lord Mayor and the General Manager; or
  - b at least one (1) Councillor (other than the Lord Mayor) and the General Manager; or
  - c the Lord Mayor and at least one (1) other Councillor; or
  - d at least two (2) Councillors other than the Lord Mayor.
- 3 The affixing of a Council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence.
- 4 The seal of a Council must not be affixed to a document unless:
  - a the document relates to the business of Council; and
  - b Council has resolved (by resolution specifically referring to the document) that the seal be so affixed.
- 5 A document which is in the nature of a reference or certificate of service for an employee of the Council is a document which does not relate to the business of Council and is not entitled to have the seal of a Council affixed.

*Reg 400*

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SUMMARY SHEET	
Responsible Division	Governance and Information
Date adopted by Council	
Date of previous adoptions	24 August 2015, 28 January 2014, 28 May 2012, 26 July 2011, 25 March 2008, 26 June 2006, 9 May 2006, 27 October 2003, 25 February 2002, 17 April 2000, 1 September 1999, 28 September 1998, 14 April 1998, 9 February 1998
Date of next review –	November 2020
Legislative or other requirement for review	Preparation of draft Code, public notice and exhibition period LGA 1993 s361
Responsible Manager	General Counsel
Authorised by	Manager Governance and Information



ADOPTED BY COUNCIL: [TO BE COMPLETED BY CORP SUPPORT]

## BACKGROUND

This policy has been developed in order to complement public consultation and contribution to the decision making of Council to enhance the quality of Council's decisions. Public Access Forums are encouraged and facilitated by this policy.

## OBJECTIVE

The main objective of this policy is to provide members of the community with the opportunity to address Councillors on matters falling within the jurisdiction and Charter of Council as outlined in the Local Government Act 1993, with the exception of development applications which are undetermined, or have been the subject of official consultation forums.

The Public Access Forum seeks to:

- 1 Improve communication between Council and its residents;
- 2 Establish processes and to ensure consistency in relation to the procedures for determining applications for the Forum;
- 3 Assist Council in its decision making processes;
- 4 Provide an opportunity for members of the community to raise relevant issues with Council in a formal meeting environment; and
- 5 Assist in demonstrating Council is an open and accessible organisation.

## POLICY STATEMENT

Requests to address Council and the conduct of public addresses are to be in accordance with the terms contained in the accompanying Statement of Procedures.

Public Access Forums are to be conducted with reference to Council's Code of Meeting Practice and Codes of Conduct.

## POLICY REVIEW AND VARIATION

- 1 Council is to have opportunity to review and adopt, at least once during its Term, each Council policy.
- 2 This policy should be reviewed concurrently with the Code of Meeting Practice and placed on public exhibition for a period of not less than 28 days, prior to its adoption.
- 3 A resolution of Council is required to adopt any variations to this policy, with the exception of minor administrative changes, such as updates to legislative references, which may be endorsed by the Executive Management Committee (EMC). Endorsement of administrative changes made to this policy by EMC does not alter the requirement for it to be reviewed and adopted by each Term of Council.

## PUBLIC ACCESS FORUM

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### STATEMENT OF PROCEDURES

#### 1 ELIGIBILITY CRITERIA

1.1 Applicants seeking to address Council meetings must meet one of the following criteria:

- i a resident or owner of land within the City of Wollongong Local Government Area
- ii a person or entity entitled to vote in the City of Wollongong under the Local Government Act, or where that voter is not a natural person, the nominee of the entity with its written authority
- iii the nominee of an entity owning land, conducting a business or providing a service in the City of Wollongong Local Government Area
- iv a duly appointed person including the legal, financial or town planning representative of any person or entity listed above with a matter before Council (written authority must be provided)
- v a person or nominee of an organisation invited to speak by a Councillor and approved by the General Manager where that person has demonstrated expertise on an issue being considered by Council at that meeting, subject to the 30 minute/six speaker provision outlined in clause 4.1 of this policy.
- vi a representative of a State or Federal Government Agency with a matter before Council.

#### 2 APPLICATIONS

2.1 Applications may be made to address either Ordinary or Extraordinary meetings of Council.

2.2 Applications to address an Ordinary meeting of Council must

- i be made in writing on the application form attached to this policy and be received by Council, no later than 12 noon on the working day prior to the day of the meeting. Applications received after this time will be refused.
- ii state the name and address of the applicant, contact telephone number and the issue to be raised.
- iii relate to a matter that falls within the jurisdiction and Charter of Council as outlined in the Local Government Act, 1993 or a report which is currently before Council for determination. Applications in respect of current meeting agenda items will be given priority.

2.3 Applications to address an Extraordinary meeting of Council, in addition to points (i) and (ii) above, must relate only to the business included in the Extraordinary meeting business paper.

2.4 The General Manager will:

- i consider and determine applications received
- ii have the discretion to approve additional applications in the event of there being more than the maximum number of applicants wishing to speak on current agenda and business paper items
- iii have the discretion to vary the maximum number of speakers on a particular business paper item should the item be addressing an issue of significant community interest.

2.5 Councillors will be informed of applications not approved by the General Manager, with reasons why.

2.6 A list of applicants addressing the Public Access Forum, together any information provided on the subject of the briefing, is to be made available to Councillors prior to the Council meeting.

#### 3 EXCLUSIONS

3.1 Addresses will not be permitted on:

- i Issues relating to development applications which are in the process of being assessed and are undetermined, have been considered at an Independent Hearing and Assessment Panel meeting or are listed on the Council meeting agenda for determination. Further information in relation to forums for development applications can be accessed through the Development Assessment and Compliance Notification Policy and the Independent Hearing and Assessment Panel Policy

## PUBLIC ACCESS FORUM

## COUNCIL POLICY

- ii Matters where there have been opportunities through Council-run engagement activities for community members to publicly address a formal Council or Agency hearing and have views recorded for public record. These opportunities would include but not be limited to public meetings, public hearings and meetings of the Independent Hearing and Assessment Panel
- iii Any matter where the applicant has previously addressed Council on the same subject, as part of a Public Access Forum
- iv Notices of Rescission
- v Business paper items which have been 'laid on the table'
- vi Procurement matters, such as formal tenders, quotations, expressions of interest, or calls for proposals.
- vii Matters where legal action has been commenced involving Council or where Council is in receipt of, or has served:
  - a Statement of Claim
  - a Summons
  - a Subpoena to attend Court or produce documents
- viii Staff related matters.

## 4 CONDUCT OF PUBLIC ACCESS FORUM

- 4.1 The forum will be limited to a period of 30 minutes, with a maximum of six addresses per meeting subject to:
  - i Council having discretion to extend the allocated Forum time at any meeting, where it is considered appropriate to do so, by way of a Resolution of Council; and
  - ii the provisions of clause 2.4 of this policy.
- 4.2 Each speaker will be permitted to address Council on one or more business paper items, for a maximum total time of five (5) minutes.
- 4.3 During a speaker's address a short alarm will sound, indicating the speaker has 30 seconds remaining to conclude their address. After that alarm a second alarm will sound, and the Lord Mayor will advise the speaker their time has concluded.
- 4.4 Due to time constraints, speakers cannot use technology as part of their address, however, can distribute hard copies of information prior to the commencement of the meeting. The Minute Clerk can assist with the distribution of such information. Speakers are responsible for ensuring enough copies are provided for the Lord Mayor, each Councillor and the General Manager at a minimum.
- 4.5 There will be a maximum of two (2) speakers in support and two (2) speakers against a particular issue and groups are required to nominate a representative to speak on their behalf.
- 4.6 Speakers must only address the subject stated on their application.
- 4.7 Speakers must not debate the issue with Councillors or staff.
- 4.8 Councillors may ask questions of the speaker on a point of clarification only.
- 4.9 Speakers do not enjoy any protection from defamation arising from comments made during their address and should therefore refrain from making defamatory remarks or personal defamatory statements against any individual.
- 4.10 The Chairperson may order a person to cease speaking if they consider that the speaker is making inappropriate or offensive comments, is abusive, is making comments that are considered not in the public interest or is not complying with Council's Code of Meeting Practice.
- 4.11 If a speaker wilfully ignores a direction from the Chairperson, the speaker will not be entitled to speak at a Public Access Forum for a period of six months, or a further period as determined by the Chairperson in consultation with Councillors.
- 4.12 As a guide for applicants, most people speak at a rate of approximately 125 to 150 words per minute.

## 5 RESPONSES



## PUBLIC ACCESS FORUM

## COUNCIL POLICY

- 5.1 If the address relates to an agenda item the issue raised by the speaker may be dealt with when the particular agenda item is considered by Council.
- 5.2 No formal response will be provided to the applicant on any question or matter raised in their address. Speakers seeking a formal response from Council must put their request in writing, which will be responded to in line with Council's *Customer Service* policy.

## 6 MINUTES

The Minutes will record the name of the speaker and group represented (if applicable), the subject matter of the address and where it relates to a matter on the Agenda, whether the speaker was in favour or against the recommendation/s made in the report.

## 7 WEBCASTING

- 7.1 All Council meetings, including the Public Access Forum, are broadcast live via the internet. By attending a meeting, speakers and other persons consent to the possibility that their image may also be broadcast to the public.
- 7.2 Video and audio recordings of full Council meetings, including addresses made in Public Access Forums, will be made available to the public for viewing on Council's website, as soon as practicable following the date of a meeting.
- 7.3 Any personal or health information voluntarily disclosed by any person at a Council meeting may be broadcast live, held by Council as part of the official record of the Meeting, and made available to the public for later viewing.

## 8 REQUEST FOR PUBLIC ACCESS OUTSIDE SCOPE OF POLICY

Nothing in this policy prevents Council from resolving at a Council meeting to allow an application for Public Access Forum outside the scope of this policy.

## 9 RELATED POLICY

- Code of Conduct for Councillors
- Code of Meeting Practice
- Customer Service

## 10 RELATED LEGISLATION

- Local Government Act 1993

PUBLIC ACCESS FORUM

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## PUBLIC ACCESS FORUM – APPLICATION FORM

(Applicants must [meet one of the following Eligibility Criteria](#) and read the Public Access Forum Policy prior to completing this form)

**Note:** Applications must be received by Council by 12 noon on the working day prior to the Council meeting

### ELIGIBILITY CRITERIA

<input type="checkbox"/>	A resident or owner of land within the City of Wollongong local government area.
<input type="checkbox"/>	A person or entity entitled to vote in the City of Wollongong under the Local Government Act, or where that voter is not a natural person, the nominee of the entity with its written authority.
<input type="checkbox"/>	The nominee of an entity owning land, conducting a business or providing a service in the City of Wollongong local government area.
<input type="checkbox"/>	A duly appointed person including the legal, financial or town planning representative of any person or entity listed above with a matter before council (written authority must be provided).
<input type="checkbox"/>	Any person or nominee of an organisation invited to speak by a Councillor and approved by the General Manager where that person has demonstrated expertise on an issue being considered by Council at that meeting.
<input type="checkbox"/>	Any representative of a State or Federal Government Agency with a matter before Council.

In submitting this application, I understand and agree to abide by the conditions of the Public Access Forum Policy of Wollongong City Council. I also note that Council meetings are broadcast live via the internet and I consent to my image and address being broadcast to the public and any personal or health information I disclose during my address will be broadcast as part of the Council Meeting, with the broadcast stored and made available to the public for later viewing.

Council Meeting Date \_\_\_\_\_

Name of Applicant \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

Email \_\_\_\_\_

Name of Speaker \_\_\_\_\_

Organisation (if applicable) \_\_\_\_\_

Business Paper Item to be addressed: \_\_\_\_\_

Item No: \_\_\_\_\_

Subject: \_\_\_\_\_

☐ I SUPPORT the report's recommendation

☐ I DO NOT SUPPORT the report's recommendation

Other matter\*\* to be addressed: \_\_\_\_\_

\*\* Refer to 2.2 (iv) of the Public Access Forum policy for other relevant matters, which must be specified above.

### This form may be lodged -

1 Via email to [publicaccessforum@wollongong.nsw.gov.au](mailto:publicaccessforum@wollongong.nsw.gov.au)

2 Delivered to the Information Desk, Ground Floor, Administration Building, 41 Burelli Street, Wollongong.

If you are not lodging your application via email, you will need to sign the form (below) before delivering it to Council's Information Desk on the Ground Floor, Administration Building, 41 Burelli Street, Wollongong. You can also post the form to Locked Bag 8821, Wollongong DC NSW 2500. If posting, you need to allow sufficient time for your application to be received by Council, before the close off time of 12 noon on the working day prior to the Council meeting.

Signature of Applicant \_\_\_\_\_

*Signature not required when emailing document*

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

### Privacy Notification (Privacy and Personal Information Protection Act 1998 – Section 10)

The personal information that Council is collecting from you on this application form is personal information for the purposes of the Privacy and Personal Information Protection Act 1998 ('the Act'). The intended recipients of the personal information are officers within the Council and any person wishing to inspect the application in accordance with the Local Government Act 1993. The supply of the information by you is not voluntary and if you cannot provide or do not wish to provide the information sought, the Council will be unable to process your application. You may make application for access or amendment to information held by Council. You may also make a request that Council suppress your personal information from a public register. Council will consider any such application in accordance with the Act. Council is to be regarded as the agency that holds the information. Enquiries concerning this matter can be addressed to Council by telephoning 4227 7111.

PUBLIC ACCESS FORUM

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OFFICE USE ONLY

Date and time application received by Council:	
Has the application been the subject of an official public consultative forum or prior address by the applicant to Council through the Public Access Forum?	
Recommendation to General Manager –	

Determination by **General Manager** Yes ☐ No ☐

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

Return to Corporate Support following determination by General Manager

Applicant advised by Phone ☐ Email ☐

Time: \_\_\_\_\_ Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Refer to Public Officer in case of any dispute/anomaly. Public Officer to hear dispute/liase with applicant and list comments below:

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PUBLIC ACCESS FORUM

COUNCIL POLICY

SUMMARY SHEET	
Responsible Division	Governance and Information
Date adopted by Council	
Date of previous adoptions	24 August 2015, 11 November 2013, 26 March 2012, 24 May 2011, 28 October 2008
Legislative or Other requirement for review	Policy – concurrent with scheduled review of Code of Meeting Practice
Date of next review	March 2021
Prepared by	Manager Governance and Information
Authorised by	Director Corporate Services