



Finance, Community & Services Committee



Report

Monday 15 April 2019

Item D5 -
Draft Code of Meeting Practice

Item No: D5 Delegated to Committee
Subject: **DRAFT CODE OF MEETING PRACTICE**
Author: Helen Tola, Manager - Governance & Council Support
Approvers: Don Johnston, Director Corporate Services
Gary James, General Manager
File No: 18/122339
Reason for Report: To present a Draft Code of Meeting Practice for the purpose of public exhibition.

Recommendation:

- A. THAT Council endorses the Draft Woollahra Municipal Council Code of Meeting Practice for the purpose of public exhibition for a period of 42 days from 17 April 2019 to 29 May 2019, as presented as Annexure 1 noting:
- i) inclusion of all **mandatory** provisions of the prescribed Model Code of Meeting Practice;
 - ii) inclusion of the following **non-mandatory** provisions 7.1 to 7.4 (Modes of Address), 8.2 (Order of Business for Ordinary Council Meetings), 13.1 to 13.7 (Dealing with Items by Exception), 15.15 (Expulsion from Meetings / Chairperson authorised to exercise power of expulsion), 17.12 to 17.14 (Rescinding or altering Council decisions), 17.15 to 17.20 (Recommitting resolutions to correct an error) and 18.1 to 18.5 (Time Limits on Council Meetings); and
 - iii) inclusion of various **additional Woollahra specific/supplementary** provisions 3.14 (Alteration of meeting times), 3.33 to 3.36 (Confidential agendas, business papers and annexures for council meetings), 4 (Public Forum), 9.15 (Submission of late correspondence), 9.16 (Reading late correspondence at Council meetings), 11.15 (Voting on planning decisions), 12.5 (Restricting the number and duration of speeches), 16.2 to 16.8 (Conflicts of Interest and Disclosures), 20.22 to 20.27 and 20.35 to 20.38 (various Policy and Safeguard clauses), 22.1 to 22.4 (Petitions) and 23.1 to 23.6 (Misuse of Information) and 24 (Procedural Motions).
- B. THAT a further report be prepared to Finance, Community & Services Committee following the close of the public exhibition period to consider public submissions received.

Background:

The purpose of this report is to present an Exhibition Draft Code of Meeting Practice and seek endorsement to publically exhibit the Code for a period of 42 days.

The Office of Local Government (OLG) released *Circular 18-45* notifying councils of the prescription and commencement of a new Model Code of Meeting Practice to apply to all councils across NSW. The Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) was prescribed on 14 December 2018. Councils must ensure that their new Code complies with the provisions of the Model Code and Councils have been given until 14 June 2019 to adopt their new code.

Until Council adopts a new code of meeting practice, its existing code of meeting practice will remain in force up until six months from the date on which the new Model Meeting Code was prescribed (14 December 2018 – 14 June 2019). If Council fails to adopt a new code of meeting practice within this period, any provisions of the council's adopted meeting code that are inconsistent with the mandatory provisions of the Model Meeting Code prescribed under the Regulation will automatically cease to have any effect to the extent that they are inconsistent with the mandatory provisions of the Model Meeting Code.

In addition, irrespective of whether councils have adopted a code of meeting practice based on the Model Meeting Code, all councils will be required to webcast meetings of the council and committees of which all members are councillors from 14 December 2019. The webcasting requirement may be met by posting an audio recording of the meeting on the council's website.

The Model Code applies to all meetings of Council and Committees of Council of which all the members are Councillors (i.e. Council and the Finance, Community & Services, Environmental Planning and Strategic & Corporate Committees) and does not refer to advisory committees or working parties.

Draft Code of Meeting Practice presented as **Annexure 1** consolidates all meeting rules into a single instrument and combines the following elements:

- **mandatory provisions** (black font)
Mandatory provisions must be included in the Draft Code of Meeting Practice. These provisions reflect existing meetings provisions of the Act and update/enhance meeting provisions previously prescribed under the Regulation to reflect contemporary meeting practices by councils and to address ambiguities and areas of confusion in the existing provisions based on feedback from councils.
- **non-mandatory provisions** (red font)
Non-mandatory provisions provide for Councils to determine whether they wish to include or omit these from the Draft Code of Meeting Practice. These provisions are in the areas of meeting practice that are common to most councils but where there may be a need for some variation in practice based on local circumstances.
- **additional supplementary provisions/unique WMC policy positions** (green font)
Additional supplementary provisions are able to be included in Council's Draft Code of Meeting Practice as long as they are not inconsistent with the mandatory provisions. Some examples include submission/reading of late correspondence, safeguards, tabling of petitions etc. These additional supplementary provisions are policy decisions which staff recommend be included in the Model Code of Meeting Practice based on our current Code of Meeting Practice.

A Councillor Workshop was held on 8 April 2019 to provide the opportunity for Councillors to provide feedback on key changes proposed in the Draft Code of Meeting Practice. Councillors considered a number of matters including webcasting of meetings, motions requiring the expenditure of funds and changes to the deadlines for motions.

Feedback received during the Councillor Workshop has been incorporated in to the Draft Code of Meeting Practice.

Summary of Key Changes to the Code of Meeting Practice from the previous Model Code of Meeting Practice:

1. Mandatory Provisions

The Draft Model Code of Meeting Practice contains a number of new **mandatory** provisions some which differ to those contained in our current Model Code of Meeting Practice. These include:

- Meeting Principles (2.1 on page 6)
New meeting principles have been added which include: *transparent, informed, inclusive, principled, trusted, respectful, effective and orderly.*
- Matters Arising / Giving notice of business to be considered at council meetings / Questions on Notice (3.10 & 3.15 on page 9)
The new Model Code has no provisions that allow for councils to move matters arising to agenda items. The Model Code states that business cannot be considered by Council unless notice of that business has been given or a motion is moved to consider the business as a matter of urgency. This means that there is no provision for 'Questions without Notice' or the ability for Councillors to move matters arising (e.g. to advise Council of various events) that are not on the Council Agenda.

As mentioned at the Councillor Workshop staff will investigate options available to Council during the public exhibition period ways in which various events/reports by Councillors can be facilitated in the future.

- Webcasting (5.18 to 5.21 on page 18)
Councils must include supplementary provisions in their adopted codes of meeting practice that specify whether meetings are to be livestreamed or recordings of meetings uploaded on the council's website at a later time. The supplementary provisions must also specify whether the webcast is to comprise of an audio visual recording of the meeting or an audio recording of the meeting. Council and Committee meetings are to be recorded and available on Council's website by 14 December 2019.

Woollahra Council currently posts audio recordings onto the Council's website for Woollahra Local Planning Panel meetings. Over a 10 month period, audio recordings were accessed a total of 118 times by 40 users.

Councillors during the workshop indicated that audio recording uploaded to Council's website the day following the meeting was the preference. Councillors requested that this be for a trial 6 month period and reviewed based on any feedback received.

Clauses 5.18a and 5.18b have been updated accordingly.

- Order of Business (8.2 on page 22)
Council's are required to adopt an order of business for Council meetings. Staff recommend that Council adopt its current order of business and considers 'Notices of Motion' and 'Questions with Notice' at the same time.

It is important to note that staff recognise the importance of Councillors being able to report on events, currently done using Suspension of Standing orders. This will be further explored during the public exhibition period and included in the report back to FC&S following the exhibition period.

- Mayoral Minutes (9.9 on page 24)

The Model Code now places limits on the use of Mayoral Minutes without notice to 'cases of urgency'.

- Amendment to Motions (10.10 to 10.16 on page 27) and Foreshadowed Motions (10.17 to 10.19 on page 28)

There are significant changes to the ways in which Motions, Amendments and Foreshadowed Amendments are to be considered. For instance direct negatives can only be considered as Foreshadowed Amendments.

Staff will prepare various templates and/or a handbook for Councillors as a point of reference on meeting procedures and arrange to meet with Chairs and Deputy Chairs to provide a further briefing on meeting procedures following adoption of the new code, indicatively toward the end of June.

- Representations by members of the public (before meeting closed) (14.9 to 14.17 on page 36)

A **mandatory** provision of the Model Code is that Council or a Committee may allow members of the public to make representations, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

Councillors considered this and agreed that applications must be made by 12noon on Monday of the meeting. Councillor's feedback was not to limit the number of speakers.

Clauses 14.11, 14.13, 14.16 and 14.17 have been updated accordingly.

- Expulsion from Meetings (15.14 to 15.20 on pages 40 & 41)

The Model Code requires that where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.

- Use of Mobile Phones and Other Devices (15.21 to 15.24 on page 41)

The Model Code requires Councillors, council staff and members of the public to ensure that mobile phones are turned to silent during meetings of the council and committees of the council. The Model Code has also been updated to prohibit the use of live stream or an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.

2. Non-Mandatory Provisions

The Draft Model Code of Meeting Practice contains a number of **non-mandatory** provisions. Councils can determine whether they wish to include or omit these from the Draft Code of Meeting Practice. Some of these are outlined below:

- Mayoral Minutes (9.6 to 9.11 on pages 23 & 24) and Notices of Motions (10.2 to 10.4 on page 26)

Council's may include a **non-mandatory** provision whereby motions requiring the expenditure of funds be included in the Draft Code of Meeting Practice, relating to identifying sources of funds for Mayoral Minutes and Notices of Motion where new works and/or services are proposed.

Historically Mayoral Minutes and Notices of Motion have called for a report by staff. The reports would identify funding sources for Mayoral Minutes and/or Notices of Motion that request new works and/or services and it was recommended that the status quo continues noting that this provides a safe guard for Councillors.

Councillors during the workshop considered that the current practice of calling for a report continues and that the provision **not be included**.

Staff will however prepare a template/guidelines that will give consideration to identifying priority and funding sources (as necessary) for Mayoral Minutes and Notices of Motion.

- Pre meeting briefing sessions (3.37 to 3.41 on page 12)

The new Model Code contains **non-mandatory** provisions (Clauses 3.37 to 3.41) relating to Councillor pre meeting briefing sessions prior to Council meetings. Councillor pre meeting briefings at Woollahra have historically been used for consideration of matters not on the Council Agenda or for special circumstances.

Council's may include a non-mandatory provision whereby pre-briefing sessions may be held prior to each ordinary council meeting in the absence of members of the public.

Staff recommend that these non-mandatory provisions not be included in the Draft Code of Meeting Practice, but noted that Councillor briefing sessions may be held as required for non-agenda items or in special circumstances.

Councillors during the workshop considered that the current practice of Councillor briefing sessions should continue.

- Public Forum (part 4 on pages 13 to 15)

The new Model Code contains **non-mandatory** provisions (Clauses 4.1 to 4.23) relating to the public forum. The provisions state that Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council. Clause 4.1 states that the public forums be held prior to each ordinary meeting of the Council. Council currently allows a public forum on matters not on Council agenda.

Staff recommend that the public forum non-mandatory provisions be excluded in the Draft Code of Meeting Practice, given there is an opportunity for members of the public to present to Councillors at all Committee Meetings including the Finance, Community & Services Committee, Environmental Planning Committee and Strategic & Corporate Committee. The opportunity for members of the public to make representations at committees has worked efficiently for many years and it is recommended that this practice continues.

Councillors during the workshop were split in their thoughts in relation to public forums with some Councillors agreeing that the current practice of allowing representations at committees works effectively, whilst other Councillors were of a mind to include public forum, allowing representations to be made at Council, in the Draft Code of Meeting Practice.

The ability for members of the public to make oral representations has worked efficiently for a number of years. Our current practice is to notify members of the community when matters are being considered by the respective committees, inviting them to make an oral submission on agenda items (where they previously made a submission). By allowing representations at the Committee level, this allows for consistency in the decision making process and provides members of the public opportunities to engage with Councillors at Committee level and ask questions freely. In our opinion accountability and transparency would be diminished and members of the community who made representations at the Committee level who were not privy to the Council meeting process may be disadvantaged if we allowed further representation at the Council Meeting.

Both **non-mandatory** Part 4 Public Forum and Woollahra specific clauses Part 4 are included in Annexure 1 for Councillor feedback on page 13.

- Canelling Ordinary Meetings (5.13 to 5.14 on page 17)
The new Model Code contains **non-mandatory** provisions (Clauses 5.13 to 5.14) relating to the cancelling of ordinary meetings, where it is apparent that the meeting will not have a quorum, or where the safety of councillors, staff and public is at risk due to a natural disaster. The Mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible. Staff have recommended that this be **included**.
- Modes of Address (7.1 to 7.4 on page 21)
The new Model Code contains **non-mandatory** provisions (Clauses 7.1 to 7.4) relating to how the Mayor, Councillors and staff are to be addressed. Staff have recommended that this be **included**.
- Recommitting Resolutions to Correct an Error (17.15 to 17.20 on page 47)
The new Model Code provides **non-mandatory** provisions relating to recommitting resolutions to correct an error, ambiguity or voting record. The new provisions state that the Chairperson must not grant leave to recommit a resolution, unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting. Staff have recommended that these provisions be **included**.
- Voting at Council Meetings (11.10 on page 30)
Council may include a **non-mandatory** provision to record all voting at Council meetings which includes all motions, amendments and foreshadowed amendments. Council's current practice has been to record votes when a division is called or where the matter being determined is a planning matter. Staff recommended that this practice continues.

Councillors discussed this and confirmed that this non-mandatory provision **not be included**.

- Time Limits of Council Meetings (18.1 to 18.5 on page 48)
Council may include a **non-mandatory** provision to specify the time (e.g. 11pm) and to allow extensions where necessary. Councillors confirmed that this non-mandatory provision be **included** to continue the current practice.
Clause 18.1 to 18.3 on page 48 has been updated accordingly.

3. Other Matters

There are a number of additional supplementary provisions/policy positions in Council's current Code of Meeting Practice which staff recommend be included. These **additional Woollahra specific/supplementary provisions** relate to various matters and are highlighted in green text for ease of reference are recommended for **inclusion**:

- Alteration of meeting times (3.14 on page 9)
- Confidential agendas, business papers and annexures for council meetings (3.33 to 3.36 on page 12)
- Submission of late correspondence (9.15 on page 25)
- Reading late correspondence at Council meetings (9.16 on page 25)
- Voting on planning decisions (11.15 on page 31)
- Restricting the number and duration of speeches (12.5 on page 32)
- Conflicts of Interest and Disclosures (16.2 to 16.8 on pages 42 to 44)
- Various Policy and Safeguard clauses (20.22 to 20.27 on pages 53 & 54 and 20.35 to 20.38 on page 56)
- Petitions (22.1 to 22.4 on pages 57)
- Misuse of Information (23.1 to 23.6 on page 58) and
- Procedural Motions (24 on page 59).

Proposed Engagement/Public Consultation:

As mentioned previously, Councils are required to consult with their communities prior to adopting a Code of Meeting Practice.

Public exhibition is proposed via the following means:

- advertising in the Wentworth Courier;
- advertising at Council's Customer Service Centre and Woollahra Libraries; and
- promotion and advertising via the 'Your Say' engagement portal on Council's website.

It is recommended that public exhibition be for a period of 42 days from 17 April 2019 to 29 May 2019. Submissions received will be reported back to the Finance, Community & Services Committee meeting for consideration.

Conclusion:

All Councils are required to adopt a new Model Code of Meeting Practice by 14 June 2019, based on the Model Code of Meeting Practice produced by the Office of Local Government. The new Code must be publically exhibited for a period of 28 days and public submission period of 42 days.

It is recommended, subject to feedback from Councillors this evening, that the Draft Code of Meeting Practice, as presented in Annexure 1, be publically exhibited from 17 April to 29 May 2019, noting that the report's recommendation includes provisions to continue Council's current practice regarding public forums, and that a further report be prepared following the public exhibition period.

Staff will also prepare various templates and distribute a handbook for Councillors as point of reference on meeting procedures and arrange to meet with Chairs and Deputy Chairs to provide a further briefing on meeting procedures following adoption of the new Code, indicatively toward the end of June.

Annexures

1. Draft Code of Meeting Practice



DRAFT

Code of Meeting Practice

Explanatory Note:

Woollahra Municipal Council's Code of Meeting Practice is based upon the NSW Government's Model Code of Meeting Practice which all councils are required to base the meeting code on, as issued by the Office of Local Government in December 2018. The Model Code consists of **Mandatory** provisions which are compulsory and **Non-Mandatory** provisions which are optional. To assist readers in understanding the distinction between these types of provisions this Draft Code of Meeting Practice is colour coded as follows:

- **Black text** denotes mandatory provisions which must be included in the Code of Meeting Practice.
- **Red text** denotes non-mandatory provisions which Council may opt to include or edit these provisions to reflect their local communities.
- **Green text** denotes additional supplementary provisions/policy positions from our current Code of Meeting Practice which are not inconsistent with the mandatory provisions.

Adoption Date:	[date] 2019 by Council Resolution
Review Date:	
Version:	1
Division/Department:	Corporate Services/Governance
Responsible Officer:	Manager – Governance & Council Support
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1 Introduction

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

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

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

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

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

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

Notes in the Code of Meeting Practice are explanatory notes only and do not form part of the Code of Meeting Practice. The notes are provided to assist with the understanding of the Code of Meeting Practice.

This Code of Meeting Practice was adopted by Council on _____.

2 Meeting Principles

2.1 Council and committee meetings should be:

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

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

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

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

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

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

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

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

3 Before the Meeting

Timing of ordinary council meetings

3.1 Ordinary meetings of the Council will be held on the following occasions: ~~[council to specify the frequency, time, date and place of its ordinary meetings]~~ Council meetings are held on the 2nd and 4th Monday of the month commencing at 8.00pm in the Council Chambers, 536 New South Head Road, Double Bay.

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

Note: Councils must use either clause 3.1 or 3.2

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

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

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

Note: Council's current meetings' cycle is:

COUNCIL

Meets each 2nd and 4th Monday of the month commencing at 8.00pm, in the Council Chamber, 536 New South Head Road, Double Bay.

COMMITTEES

Environmental Planning Committee, Finance, Community & Services Committee Meetings and Strategic & Corporate Committee

Each 1st and 3rd Monday of the month commencing at 6.00pm (unless changed to an earlier time by the individual Committee Chairperson because of weight of business) with the Environmental Planning Committee held in the Thornton Room and the Finance, Community & Service Committee in the Council Chamber.

5TH MONDAY IN THE MONTH

Is usually a "free" evening. Unless the Council has a major and pressing issue before it, no meetings are scheduled for the evening.

MONDAY PUBLIC HOLIDAYS

Require re-scheduling of meetings to the immediately following Tuesday evening. Prior advice is always given to Councillors.

CHRISTMAS/NEW YEAR BREAK

Is traditionally taken from mid-December to mid-January.

Extraordinary meetings

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

Note: Clause 3.3 reflects section 366 of the Act.

Notice to the public of council meetings

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

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

- 3.5 For the purposes of clause 3.4, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.

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

Notice to councillors of ordinary council meetings

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

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

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

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

Notice to councillors of extraordinary meetings

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

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

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Giving notice of business to be considered at council meetings

- 3.10 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted ~~[council to specify notice period required]~~ four (4) business days before the meeting is to be held (i.e. by 5.00pm on the Tuesday prior to the meeting).
- 3.11 A councillor may, in writing to the general manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.
- ~~3.12 If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.~~
- ~~3.13 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the general manager must either:~~
- ~~(a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or~~
 - ~~(b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.~~

Alterations of meeting times

- 3.14 A committee chairperson may, in consultation with the mayor and general manager, alter the commencement times of meetings where the amount of business or such other special circumstances may prevail. **[Policy]**

Questions with notice

- 3.15 A councillor may, by way of a notice submitted under clause 3.10, ask a question for response by the general manager about the performance or operations of the council, in writing and must be submitted four (4) business days before the meeting is to be held (i.e. by 5.00pm on Tuesday prior to the meeting).
- 3.16 A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.

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- 3.17 The general manager or their nominee may respond to a question with notice submitted under clause 3.14 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

Agenda and business papers for ordinary meetings

- 3.18 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 3.19 The general manager must ensure that the agenda for an ordinary meeting of the council states:
- (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
 - (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
 - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
 - (d) any business of which due notice has been given under clause 3.10.
- 3.20 Nothing in clause 3.18 limits the powers of the mayor to put a mayoral minute to a meeting under clause 9.6.
- 3.21 The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
- 3.22 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public, the general manager must ensure that the agenda of the meeting:
- (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
 - (b) states the grounds under section 10A(2) of the Act relevant to the item of business.

Note: Clause 3.22 reflects section 9(2A)(a) of the Act.

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

Note: Business papers for Ordinary Council and Standing Committee Meetings are generally prepared on the Thursday preceding the Monday meeting.

Availability of the agenda and business papers to the public

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

Note: Clause 3.24 reflects section 9(2) and (4) of the Act.

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

Note: Clause 3.25 reflects section 9(2A)(b) of the Act.

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

Note: Clause 3.26 reflects section 9(3) of the Act.

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

Note: Clause 3.27 reflects section 9(5) of the Act.

Agenda and business papers for extraordinary meetings

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

- 3.29 Despite clause 3.28, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:

- (a) a motion is passed to have the business considered at the meeting, and
- (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

- 3.30 A motion moved under clause 3.29(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

- 3.31 Despite clauses 10.20–10.30, only the mover of a motion moved under clause 3.29(a) can speak to the motion before it is put.

- 3.32 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.29(b) on whether a matter is of great urgency.

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Confidential agendas, business papers and annexures for council meetings

- 3.33 Confidential agendas, business papers and associated annexures for council meetings remain confidential until such time as council has resolved to release any or all of the information to the public.
- 3.34 Each confidential matter submitted to council will include an “open” recommendation in the open business paper in accordance with section 9(2A) of the Act and a “confidential” recommendation in a confidential business paper.
- 3.35 The open recommendation will include a recommendation:
- (i) for the council to move into closed session to consider the confidential recommendation making specific reference to the particular provision of section 10A(2) of the Act upon which the decision to move into closed session is based, and
 - (ii) for the council to adopt the confidential recommendation, and
 - (iii) for the confidential report and/or confidential supporting annexures to remain confidential for a particular period of time or following the conclusion of a particular event, i.e. finalisation of a Land and Environment Court matter or signing of a contract.
- 3.36 3.35 Before a matter is recommended to a council meeting to be confidential, staff must have regard to and perform the public interest test required by section 10B(1)(b) of the Act and determine that on balance, the public interest in preserving the confidentiality of the information outweighs the public interest in maintaining openness and transparency in the decision making process for the matter before the council. **[Policy]**

Pre-meeting briefing sessions

- ~~3.37 Prior to each ordinary meeting of the council, the general manager may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.~~
- ~~3.38 Pre-meeting briefing sessions are to be held in the absence of the public.~~
- ~~3.39 The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.~~
- ~~3.40 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.~~
- ~~3.41 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.~~

4 Public Forums

- 4.1 Council will allow members of the public to address a council meeting on any local government related matter excluding matters that are:
- on the council meeting agenda, or
 - any application already lodged with the council for decision, or
 - that criticises or complains about councillors or council staff.

The council meeting business paper will include a section called "Public Forum" immediately following consideration of mayoral minutes.

The procedure for the conduct of the public forum will be as follows:

- 1 Each person wishing to address a council meeting is required to complete a "Public Forum Registration Form" and submit it to council prior to 5.00pm on the Wednesday preceding the council meeting. This will give staff time to review the forum topic and be able to comment, if requested by councillors, on the contents of the public forum.

Any request received after 5.00pm on the Wednesday preceding the council meeting will be carried forward to the next council meeting.
- 2 A maximum time limit of 3 minutes for each address will be allowed at the council meeting.
- 3 The maximum number of addresses at each council meeting will be 3.
[Policy]

OR

- ~~4.1 The council may hold a public forum prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council.~~
- ~~4.2 Public forums are to be chaired by the mayor or their nominee.~~
- ~~4.3 To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by [date and time to be specified by the council] before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.~~
- ~~4.4 A person may apply to speak on no more than [number to be specified by the council] items of business on the agenda of the council meeting.~~
- ~~4.5 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.~~

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- ~~4.6 — The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.~~
- ~~4.7 — No more than **[number to be specified by the council]** speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the council meeting.~~
- ~~4.8 — If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to address the council on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the general manager or their delegate is to determine who will address the council at the public forum.~~
- ~~4.9 — If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may, in consultation with the mayor or the mayor's nominated chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.~~
- ~~4.10 — Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than **[number to be specified by the council]** days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.~~
- ~~4.11 — The general manager or their delegate is to determine the order of speakers at the public forum.~~
- ~~4.12 — Each speaker will be allowed **[number to be specified by the council]** minutes to address the council. This time is to be strictly enforced by the chairperson.~~
- ~~4.13 — Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.~~
- ~~4.14 — A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.~~
- ~~4.15 — Speakers are under no obligation to answer a question put under clause 4.14. Answers by the speaker, to each question are to be limited to **[number to be specified by the council]** minutes.~~
- ~~4.16 — Speakers at public forums cannot ask questions of the council, councillors or council staff.~~
- ~~4.17 — The general manager or their nominee may, with the concurrence of the chairperson, address the council for up to **[number to be specified by the council]** minutes in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.~~

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- ~~4.18 — Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.~~
- ~~4.19 — When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.~~
- ~~4.20 — If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.19, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.~~
- ~~4.21 — Clause 4.20 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.~~
- ~~4.22 — Where a speaker engages in conduct of the type referred to in clause 4.19, the general manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the general manager or their delegate considers appropriate.~~
- ~~4.23 — Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.~~

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

5 Coming Together

Attendance by councillors at meetings

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

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

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

- 5.3 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.

Note: Council's standard practice is to accept an apology and grant leave of absence and a motion to this effect be moved at the meeting.

- 5.4 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.

- 5.5 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.

- 5.6 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

Note: Clause 5.6 reflects section 234(1)(d) of the Act.

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

Note: As Council has a pre-determined 2 weekly meeting schedule, the inclusion of the meetings (by date) that a councillor will be absent during a period of leave of absence is not necessary as those meetings can easily be identified through the pre-determined meeting schedule. It is also not operationally necessary for Councillors to advise the General Manager if they intend to return to meetings prior to the conclusion of their leave.

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The quorum for a meeting

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

Note: Clause 5.8 reflects section 368(1) of the Act.

- 5.9 Clause 5.8 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

Note: Clause 5.9 reflects section 368(2) of the Act.

- 5.10 A meeting of the council must be adjourned if a quorum is not present:

- (a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
- (b) within half an hour after the time designated for the holding of the meeting, or
- (c) at any time during the meeting.

- 5.11 In either case, the meeting must be adjourned to a time, date and place fixed:

- (a) by the chairperson, or
- (b) in the chairperson's absence, by the majority of the councillors present, or
- (c) failing that, by the general manager.

- 5.12 The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

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

- 5.14 Where a meeting is cancelled under clause 5.13, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.3.

Entitlement of the public to attend council meetings

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

Note: Clause 5.15 reflects section 10(1) of the Act.

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- 5.16 Clause 5.15 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.
- 5.17 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:
- (a) by a resolution of the meeting, or
 - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

Note: Clause 5.17 reflects section 10(2) of the Act.

~~**Note: If adopted, clauses 15.13 and 15.14 confer a standing authorisation on all chairpersons of meetings of the council and committees of the council to expel persons from meetings. If adopted, clause 15.13 authorises chairpersons to expel any person, including a councillor, from a council or committee meeting. Alternatively, if adopted, clause 15.14 authorises chairpersons to expel persons other than councillors from a council or committee meeting.**~~

Webcasting of meetings

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

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

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

5.18 a) to comply with the requirement to webcast its meetings, Woollahra Municipal Council will webcast using audio recordings.

5.18 b) Audio recordings will be uploaded to the Council website by 5.00pm on the business day immediately following the meeting.

- 5.19 Clause 5.18 does not apply to parts of a meeting that have been closed to the public under section 10A of the Act.
- 5.20 At the start of each meeting the chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.
- 5.21 A recording of each meeting of the council and committee of the council is to be retained on the council's website for a **minimum period 6 months which will be re-assessed to determine the access statistics**. Recordings of meetings may be disposed of in accordance with the State Records Act 1998.

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Attendance of the general manager and other staff at meetings

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

Note: Clause 5.22 reflects section 376(1) of the Act.

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

Note: Clause 5.23 reflects section 376(2) of the Act.

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

Note: Clause 5.24 reflects section 376(3) of the Act.

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

6 The Chairperson

The chairperson at meetings

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

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

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

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

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

- 6.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

- 6.4 The election of a chairperson must be conducted:

- (a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or
- (b) by the person who called the meeting or a person acting on their behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.

- 6.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.

- 6.6 For the purposes of clause 6.5, the person conducting the election must:

- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
- (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.

- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

Chairperson to have precedence

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

7 Modes Of Address

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

8 Order of Business for Ordinary Council Meetings

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

8.2 The general order of business for an ordinary meeting of the council shall be:
~~[councils may adapt the following order of business to meet their needs]~~

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

Note:

At a meeting of Woollahra Council (other than an extraordinary meeting), the general order of business is (except as provided by the Regulation) as follows:

- 1. Confirmation of Minutes of previous meeting(s)*
- 2. Leave of Absence and Apologies*
- 3. Declarations of Interest*
- 4. Late Correspondence*
- 5. Petitions Tabled*
- 6. Mayoral Minute(s)*
- 7. Public Forum*
- 8. General Manager & Officers' Report*
- 9. Reports of the Committees (9.1 - EP, 9.2 – FC&S, 9.3 – S&C)*
- 10. Rescission Motion(s)*
- 11. Notices of Motion / Questions with Notice*

Note: Councils must use either clause 8.1 or 8.2.

8.3 The order of business as fixed under clause ~~[8.1/8.2]~~ **~~[delete whichever is not applicable]~~** may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

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

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

9 Consideration of Business at Council Meetings

Business that can be dealt with at a council meeting

- 9.1 The council must not consider business at a meeting of the council:
- (a) unless a councillor has given notice of the business, as required by clause 3.10, and
 - (b) unless notice of the business has been sent to the councillors in accordance with clause 3.7 in the case of an ordinary meeting or clause 3.9 in the case of an extraordinary meeting called in an emergency.
- 9.2 Clause 9.1 does not apply to the consideration of business at a meeting, if the business:
- (a) is already before, or directly relates to, a matter that is already before the council, or
 - (b) is the election of a chairperson to preside at the meeting, or
 - (c) subject to clause 9.9, is a matter or topic put to the meeting by way of a mayoral minute, or
 - (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.
- 9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:
- (a) a motion is passed to have the business considered at the meeting, and
 - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.
- 9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

Mayoral minutes

- 9.6 Subject to clause 9.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.
- 9.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.
- 9.8 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.

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- 9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.

~~9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.~~

- 9.11 Amendments to mayoral minutes that are consistent with the intent of the terms of the minute are permitted, provided such amendments have the agreement of the mayor. **[Policy]**

Staff reports

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

Reports of committees of council

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

Note: *The council in considering the reports of committees has adopted the practice of receiving the report and then reviewing it. The mayor invites the chairperson of each committee to "call" each recommendation individually by referring to its number in the committee report on the council agenda. Any councillor who wishes to debate an item, or requires information on it, advises the mayor when the number is called. The report of the committee is then adopted with the exception of certain specified items. The items "called" are then considered separately.*

A decision of the council can only be taken by way of a motion, which must be seconded. The recommendation of the committee is merely a suggestion and does not constitute a motion. The carrying of a motion that a report be received (and dealt with) is merely an acknowledgment by the council that the report is a proper one for the council to consider.

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Submission of late correspondence

- 9.15 That the deadline be 12noon on the day of the council meeting for acceptance of late correspondence. This will give staff time to digest and comment, if appropriate, on the contents of the late correspondence. **[Policy]**

Reading late correspondence at council meetings

- 9.16 That late correspondence be read in conjunction with the relevant Agenda item. **[Policy]**

Questions

- 9.17 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.10 and 3.15.
- 9.18 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.
- 9.19 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the general manager at the direction of the general manager.
- 9.20 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.
- 9.21 Councillors must put questions directly, succinctly, respectfully and without argument.
- 9.22 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

10 Rules Of Debate

Motions to be seconded

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

Notices of motion

- 10.2 A councillor who has submitted a notice of motion under clause 3.10 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.10 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:
- (a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
 - (b) the chairperson may defer consideration of the motion until the next meeting of the council.

Note: Notices of motion must be submitted to Council's Governance Department by 5.00pm on the Tuesday preceding the council meeting.

Amendments to notices of motion that are consistent with the intent of the terms of the motion are permitted, provided such amendments have the agreement of the mover and seconder.

Those councillors that have submitted a notice of motion that are present at a council meeting may withdraw the notice of motion from consideration at the council meeting.

If any councillor whose name is included as a councillor submitting the notice of motion is present at the council meeting and does not agree to withdrawing the notice of motion, the notice of motion is to be considered at the meeting.

[Policy]

Note: The chairperson may call over the notices of motion on the business paper, in the order in which they appear thereon, and if objection be not taken to a motion being taken as a formal motion may, without discussion, put the motion to the vote. [Policy]

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Chairperson's duties with respect to motions

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

Motions requiring the expenditure of funds

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

Amendments to motions

- 10.10 An amendment to a motion must be moved and seconded before it can be debated.
- 10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 10.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.
- 10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

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Foreshadowed motions

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

Limitations on the number and duration of speeches

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 10.21 A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- 10.22 A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time.
- 10.23 Despite clause 10.22, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.
- 10.25 Despite clauses 10.20 and 10.21, a councillor may move that a motion or an amendment be now put:
- (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
 - (b) if at least two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.
- 10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.

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- 10.27 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 10.20.
- 10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.
- 10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

Note:

A warning bell is rung once after four (4) minutes of any councillor's address to the council and rung twice after (5) minutes. This is to assist councillors in complying with the time limit requirements.

Note:

In order to expedite the business of this council, the following Rules of Debate shall be adopted as Standing Orders, viz:

- a) No more than two councillors should speak in succession on one side, either for or against the motion or amendment before the Council, and if, at the conclusion of the second speaker's remarks, no member rises to speak on the other side, the motion or amendment shall be put to the meeting after the mover of the motion has replied.*
- b) Any councillor proposing or seconding a motion shall have the right to speak once at any time during the debate without having to specifically reserve the right to speak later in the debate in preference to when moving or seconding the motion or amendment.*
- c) No discussion shall be permitted on any matter before the council (other than a question or personal explanation) except in the proposing, seconding, supporting or opposing a motion.*

11 Voting

Voting entitlements of councillors

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

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

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

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

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

Voting at council meetings

- 11.4 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

- 11.5 If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.

- 11.6 The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.

- 11.7 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the council's minutes for the meeting.

- 11.8 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.4 of this code. **The general manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the council's minutes.**

- 11.9 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

~~11.10 All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.~~

~~**Note: If clause 11.10 is adopted, clauses 11.5 – 11.8 and clause 11.12 may be omitted.**~~

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Voting on planning decisions

- 11.11 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- 11.12 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- 11.13 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.
- 11.14 Clauses 11.11–11.13 apply also to meetings that are closed to the public.

Note: Clauses 11.11–11.14 reflect section 375A of the Act.

Note: The requirements of clause 11.11 may be satisfied by maintaining a register of the minutes of each planning decision.

- 11.15 Where a determinative decision on a planning matter is recommended by a committee to the council for adoption (R item) a record of the names of the councillors who supported the recommendation and the names of councillors who opposed (or are taken to have opposed) the recommendation, are to be recorded in the minutes of the committee meeting. **[Policy]**

12 Committee of the Whole

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

Note: Clause 12.1 reflects section 373 of the Act.

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

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

- 12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.

- 12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

- 12.5 The Council may, by resolution, extend or restrict the number and duration of speeches in Committee of the whole meetings. **[Policy]**

13 Dealing with Items by Exception

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

14 Closure Of Council Meetings To The Public

Grounds on which meetings can be closed to the public

14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:

- (a) personnel matters concerning particular individuals (other than councillors),
- (b) the personal hardship of any resident or ratepayer,
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law,
- (f) matters affecting the security of the council, councillors, council staff or council property,
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
- (i) alleged contraventions of the council's code of conduct.

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

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

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

Matters to be considered when closing meetings to the public

14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:

- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
- (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

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

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

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

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

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

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

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

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

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

Notice of likelihood of closure not required in urgent cases

- 14.8 Part of a meeting of the council, or of a committee of the council, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.22 as a matter that is likely to be considered when the meeting is closed, but only if:
- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 14.1, and
 - (b) the council or committee, after considering any representations made under clause 14.9, resolves that further discussion of the matter:
 - (i) should not be deferred (because of the urgency of the matter), and
 - (ii) should take place in a part of the meeting that is closed to the public.

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

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Representations by members of the public

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

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

- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by **Monday 12 noon** before the meeting at which the matter is to be considered.
- 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.13 ~~No more than [number to be specified by the council] speakers are to be permitted to make representations under clause 14.9.~~ **No limit to the number of speakers permitted to make representations under clause 14.9 is set by Council.**
- 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.
- 14.15 The general manager (or their delegate) is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. ~~The chairperson is to permit no more than [number to be specified by the council] speakers to make representations in such order as determined by the chairperson.~~ **No limit to the number of speakers permitted to make representations under clause 14.9 is set by the Chairperson.**
- 14.17 Each speaker will be allowed **four (4)** minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

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Note: A bell will be rung at the conclusion of 3 minutes, and two bells rung at the conclusion of 4 minutes.

Expulsion of non-councillors from meetings closed to the public

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

Information to be disclosed in resolutions closing meetings to the public

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

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

Resolutions passed at closed meetings to be made public

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

15 Keeping Order at Meetings

Points of order

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

Note: Any councillor may at any time rise and address the chair on a point of order, but must at once:

- 1) state the point of order, and*
- 2) the reason for the point of order.*

A point of order can be taken for any irregularity in procedure, for example:

- 1) a quorum is not present, or*
- 2) the motion before the meeting lies outside the scope of the subject of debate,*

or

- 3) there is a failure to comply with Council's "Code of Meeting Practice", or*
- 4) the speaker's remarks are irrelevant to the motion, or*
- 5) the speaker's remarks involve tedious repetition, or*
- 6) insulting or abusive language has been used.*

Contradictions, personal explanations and statements of fact and/or opinion dealing with the subject are NOT valid points of order.

The point of order must be taken immediately the breach occurs and cannot be taken at any other time. A point of order takes precedence of all other business including procedural motions except for a call for a quorum.

The expression "to move a point of order" is not correct. The appropriate expression is "to take a point of order."

The chairperson should rule immediately on the point of order but may, before giving a ruling, give an opportunity to the speaker to explain.

*The chairperson's decision on a point of order should be treated by the meeting as final and should not be discussed. **[Policy]***

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Questions of order

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

Motions of dissent

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

Acts of disorder

- 15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:
- (a) contravenes the Act or any regulation in force under the Act or this code, or
 - (b) assaults or threatens to assault another councillor or person present at the meeting, or
 - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or
 - (d) insults or makes personal reflections on or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
 - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

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15.12 The chairperson may require a councillor:

- (a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a) or (b), or
- (b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or
- (c) to retract and apologise without reservation for an act of disorder referred to in clauses 15.11(d) and (e).

How disorder at a meeting may be dealt with

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

Expulsion from meetings / Chairperson authorised to exercise power of expulsion

~~15.14 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person, including any councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act.~~

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

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

15.16 ~~Clause [15.14/15.15] [delete whichever is not applicable], does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.~~

15.17 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

15.18 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.

15.19 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.

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- 15.20 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

Use of mobile phones and the unauthorised recording of meetings

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

16 Conflicts of Interest

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

16.2 Disclosure and presence in meetings in relation to pecuniary interests

- 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.
- 2) For the removal of doubt, a councillor or a member of a council committee is not prevented by this section from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or member has an interest in the matter of a kind referred to in section 448. (see Annexure 1)
- 3) 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 commencement of the meeting.
- 4) 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.

[Act, Section 451]

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16.3 Disclosure and presence in meetings in relation to non-pecuniary interests

- 1) A councillor or a member of a council committee who has a non-pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as possible.
- 2) A councillor or member of a council committee who has a significant non-pecuniary interest in any matter must have no involvement in the matter, by absenting themselves from and not taking part in any debate or voting on the matter as if the provisions of section 451(2) of the Act, relating to pecuniary interests, apply.
- 3) If a councillor or member of a council committee determines that a non-pecuniary interest is less than significant and does not require further action, the councillor or the member of the council committee must provide an explanation of why they consider that the conflict does not require further action in the circumstances.
- 4) Despite part (2) above, a councillor who has disclosed that a significant non-pecuniary interest exists may participate in a decision to delegate council's decision-making role to council staff through the general manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with part (2) above. **[Code of Conduct]**

16.4 Disclosures to be recorded

A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting. **[Act, Section 453]**

16.5 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. **[Act, Section 454]**

16.6 Disclosure by adviser

- 1) A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given.
- 2) The person is not required to disclose the person's interest as an adviser. **[Act, Section 456]**

16.7 Circumstances in which sections 451 and 456 are not breached

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

[Act, Section 457]

16.8 Powers of minister in relation to meetings

The Minister may, conditionally or unconditionally, allow a councillor or a member of a council committee who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- b) that it is in the interests of the electors for the area to do so. **[Act, Section 458]**

17 Decisions of the Council

Council decisions

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

Note: Clause 17.1 reflects section 371 of the Act.

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

Rescinding or altering council decisions

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

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

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

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

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

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

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

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

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

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

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

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

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

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~~17.10 A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than 15 minutes [council to specify the period of time] after the meeting at which the resolution was adopted.~~

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

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

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

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

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

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

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Recommitting resolutions to correct an error

- 17.15 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:
- (a) to correct any error, ambiguity or imprecision in the council's resolution, or
 - (b) to confirm the voting on the resolution.
- 17.16 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.15(a), the councillor is to propose alternative wording for the resolution.
- 17.17 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.
- 17.18 A motion moved under clause 17.15 can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.
- 17.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.
- 17.20 A motion moved under clause 17.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

18 Time Limits on Council Meetings

- 18.1 Meetings of the council and committees of the council are to conclude no later than 11.00pm.
- 18.2 If the business of the meeting is unfinished at 11.00pm, the council or the committee may, by resolution, extend the time of the meeting.
- 18.3 If the business of the meeting is unfinished at 11.00pm, and the council does not resolve to extend the meeting, the chairperson must either:
- (a) defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the council, or
 - (b) adjourn the meeting to a time, date and place fixed by the chairperson.
- 18.4 Clause 18.3 does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.
- 18.5 Where a meeting is adjourned under clause 18.3 or 18.4, the general manager must:
- (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
 - (b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the general manager is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

19 After the Meeting

Minutes of meetings

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

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

- 19.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:

- (a) details of each motion moved at a council meeting and of any amendments moved to it,
- (b) the names of the mover and seconder of the motion or amendment,
- (c) whether the motion or amendment was passed or lost, and
- (d) such other matters specifically required under this code.

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

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

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

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

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

- 19.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

- 19.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

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

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

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

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

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the meeting was closed to the public.

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

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

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

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

Implementation of decisions of the council

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

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

20 Council Committees

Application of this Part

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

Council committees whose members are all councillors

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

Functions of committees

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

Notice of committee meetings

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

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Attendance at committee meetings

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

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

Non-members entitled to attend committee meetings

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

Chairperson and deputy chairperson of council committees

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

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Procedure in committee meetings

- 20.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.
- 20.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 20.15.
- 20.17 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

Closure of committee meetings to the public

- 20.18 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.
- 20.19 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.
- 20.20 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 20.19 during a part of the meeting that is webcast.

Disorder in committee meetings

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

Referrals on request of Councillors to full Council

- 20.22 A matter may be called from a Committee Meeting to Full Council by a Councillor in accordance with the Committee Policy and Procedures [Policy and Safeguards].

When a Committee substantially changes a staff recommendation

- 20.23 Where, at a Committee Meeting there is a reversal or substantive change to a staff recommendation, the matter is automatically referred to the Council. **[Policy and Safeguards].**

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A Committee can refer a matter to full Council

- 20.24 A committee can resolve to refer a matter to the council for any reason. This usually occurs where the committee is divided in its view or is seeking clarification of a particular issue prior to determining the matter. This process allows a decision to be achieved without the need for a deferral to the following meeting of that committee.
[Policy and Safeguards]

Submission of late correspondence

- 20.25 That the deadline be 12noon on the day of the committee meeting for acceptance of late correspondence. This will give staff time to digest and comment, if appropriate, on the contents of the late correspondence. **[Policy]**

Reading late correspondence at committee meetings

- 20.26 That late correspondence be read in conjunction with the relevant Agenda item.
[Policy]

Representation to committee meetings by the public

- 20.27 Any person wishing to address a committee meeting in relation to a matter on the agenda will be allowed 4 minutes to make their presentation.

If a large number of persons wish to address a committee meeting on a particular matter, it will be at the discretion of the chairperson of the respective committee to determine, with a view to fairness of representation, how many persons may address the meeting.

A committee may at any time, invite staff to comment on any matter raised at a committee meeting. If matters raised are substantial, the committee may defer the matter to another meeting in order to obtain clarification of the matters raised.
[Policy and safeguards]

Minutes of council committee meetings

- 20.28 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:

- (a) details of each motion moved at a meeting and of any amendments moved to it,
- (b) the names of the mover and seconder of the motion or amendment,
- (c) whether the motion or amendment was passed or lost, and
- (d) such other matters specifically required under this code.

~~20.29 All voting at meetings of committees of the council (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.~~

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- 20.30 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.
- 20.31 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 20.32 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 20.33 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 20.34 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

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Committee chairperson to have casting vote in limited circumstances

- 20.35 The chairperson of a committee is the councillor appointed by the Council or should the Council not appoint a chairperson, the councillor elected by the committee to be the chairperson.
- 20.36 The chairperson of a committee can use, at his or her discretion, a casting vote for individual circumstances provided that the casting vote is used only to progress consideration of the matter and does not finally determine the matter. Under no circumstances can a casting vote be used to finalise the matter and in circumstances where the use of a casting vote would (if exercised) finalise the matter, the recommendation or alternate recommendations receiving equal votes must be referred to the council for its decision.
- 20.37 The chairperson may use a casting vote for an R Item where, through council's delegations, policies and safeguards, the matter is referred to full council for determination.
- 20.38 The chairperson may also decline to use a casting vote and refer the matter to full council for determination. **[Policy]**

Guidelines for the use of a casting vote by committee chairpersons

The chairperson may use a casting vote where the vote is equal on matters similar to the following circumstances:

- where there is a motion or amendment to defer a matter to obtain additional information,*
- where there is a motion or amendment to defer the matter for an additional report,*
- where there is a motion or amendment to defer and confer on a matter,*
- where there is a motion or amendment to attend a site inspection,*
- where part of a motion or amendment is to require a further report,*
- where a motion or amendment would progress the matter in some other way but not finally determine the matter.*
- at any time for an R Item where, through council's delegations, policies and safeguards, the matter is referred to full council for determination.*

The chairperson may not use a casting vote where the vote is equal on a matter where the casting vote would (if exercised) finally determine a matter by approving or refusing an application or adopting a specific course of action on a matter.

Where a vote is equal and a casting vote would (if exercised) finalise a matter, the recommendation or alternate recommendations receiving equal votes must be referred to the council for its decision."

21 Irregularities / Certain circumstances do not invalidate council decisions

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

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

Note: Clause 21.1 reflects section 374 of the Act.

22 Petitions

22.1 That Council affirm its belief in, and support for the right:

"It is the privilege of any individual or body of individuals in the community to petition (council) to obtain redress of grievances, or to ask it not to do something that is contemplated."

22.2 That for the purposes of reviewing and dealing with petitions, such documents be formally drawn up, and be directed to matters which are within the powers of authorities of the council.

22.3 That petitions presented by councillors to duly convened council meetings be subject to consideration of motions in terms "That the petition lie on the table for a period of fourteen (14) days and"

22.4 That petitions lodged with the council by post or means other than by presentation by a councillor at a duly convened meeting of the council shall be dealt with as ordinary correspondence. **[Policy]**

23 Misuse of Information

Disclosure and misuse of information

- 23.1 A person must not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:
- (a) with the consent of the person from whom the information was obtained, or
 - (b) in connection with the administration or execution of this Act, or
 - (c) for the purpose of any legal proceedings arising out of this Act or 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.
- 23.2 In particular, if part of a meeting of a council or a committee of council is closed to the public in accordance with section 10A(1), a person must not, without the authority of the council or the committee, disclose (otherwise than to the council or a councillor of the council) information with respect to the discussion at, or the business of, the meeting.
- 23.3 Subsection (23.2) does not apply to:
- a) the report of a committee of a council after it has been presented to the council, or
 - b) disclosure made in any of the circumstances referred to in subsection (1)(a)-e), or
 - c) disclosure made in circumstances prescribed by the regulations, or
 - d) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with section 12.
- 23.4 A person acting in the administration or execution of this Act must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known, for the purpose of gaining either directly or indirectly a financial advantage for the person, the person's spouse or de facto partner or a relative of the person.
- 23.5 A person acting in the administration or execution of this Act, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person, influence:
- a) the determination of an application for an approval; or
 - b) the giving of an order. **[Act, Section 664]**

Disclosure and misuse of information – prescribed circumstances

- 23.6 For the purposes of section 664 (1B)(c) of the Act, any disclosure made with the intention of enabling the Minister or the Director-General to properly exercise the functions conferred or imposed on them by or under the Act is a prescribed circumstance. **[Regulation, Clause 412]**

24 Procedural Motions

Examples of procedural motions under the Act and Regulation are shown in the following table:

Motion	Moved without Notice	Requires Seconder	Speakers/Debate Permitted	Right of Reply
<i>Change the Order of Business</i>	Yes	Yes	<i>Mover of motion only</i>	No
<i>Business without Notice (matter of urgency) (clause 10.3)</i>	Yes	Yes	<i>Mover of motion only</i>	No
<i>Dissent from Chairperson's ruling on Point of Order</i>	Yes	Yes	<i>Mover & Chairperson only may speak</i>	No
<i>Adjournment of Meeting</i>	Yes	Yes	<i>No debate permitted</i>	No
<i>Limitation to number of speakers (motion be now put)</i>	Yes 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 if at least 2 councillors have spoken in favour of the motion or amendment and at least 2 councillors have spoken against it.	No	<i>No debate permitted. Motion must be put immediately after mover of original motion/amendment has right of reply.</i>	No
<i>Deferment of a Matter</i>	Yes	Yes	Yes	Yes
<i>Motion be dealt with in seriatim</i>	Yes	Yes	<i>Mover of motion only</i>	No

25 Definitions

the Act	means the <i>Local Government Act 1993</i>
act of disorder	means an act of disorder as defined in clause 15.11 of this code
amendment	in relation to an original motion, means a motion moving an amendment to that motion
audio recorder	any device capable of recording speech
business day	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
chairperson	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 20.11 of this code
this code	means the council's adopted code of meeting practice
committee of the council	means a committee established by the council in accordance with clause 20.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1
council official	has the same meaning it has in the Model Code of Conduct for Local Councils in NSW
day	means calendar day
division	means a request by two councillors under clause 11.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion
foreshadowed amendment	means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion
open voting	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
planning decision	means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act
performance improvement order	means an order issued under section 438A of the Act
quorum	means the minimum number of councillors or committee members necessary to conduct a meeting
the Regulation	means the <i>Local Government (General) Regulation 2005</i>
webcast	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time
year	means the period beginning 1 July and ending the following 30 June

DRAFT Code of Meeting Practice

This table provides a summary of the clauses from the Model Code of Conduct that have been amended by resolution of Woollahra Municipal Council.

Clause	Provision	Date Adopted

Policy Amendments

Date	Responsible Officer	Description