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# **Forbes Shire Council Code of Meeting Principles & Practices**

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## FORBES SHIRE COUNCIL Code of Meeting Principles & Practices Policy

### Revision History

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Circular 13-19: Guidelines on the Closure of Council and Committee Meetings, 19 April 2013 (reference A296888)	Office of Local Government
The Closure of Council Meetings to the Public, April 2013	Office of Local Government
Circular 10-10: Practice Note 16 – Meetings Practice, 21 May 2010 (reference: A200086)	Office of Local Government
Model Code of Conduct – Model	Council's Policy Register
Public Forum Policy	Council's Policy Register
Business Paper Policy and Procedure	Council's Policy Register

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# FORBES SHIRE COUNCIL

## Code of Meeting Principles & Practices Policy

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## 1. INTRODUCTION

This Code is made under the Local Government Act 1993 and in accordance with the Local Government (General) Regulation 2005. The object of this Code is to provide for the convening and orderly conduct of meetings of Forbes Shire Council and of the Committees of Council. The provisions of this Code are based on the Local Government Act, the Local Government (General) Regulation and the practices adopted by this Council (to the extent that they are not inconsistent with the Act or Regulation). Council and all Committees of Council of which all members are Councillors, must conduct their meetings in accordance with this Code (Local Government Act s360 (3)).

This Code shall be automatically amended from time to time to accord with any changes to the Local Government Act and the Local Government (General) Regulation. These changes do not require public notification under sections 361 to 363 of the Act. Any amendment to the additional provisions in the Meeting Code will require public notification.

## 2. OBJECTIVES

This Code of Meeting Practice has the following objectives:

1. to ensure that all meetings of Council and its Committees are conducted in an orderly, consistent and efficient manner;
2. to ensure that all meetings of Council and its Committees are conducted according to the principles of procedural fairness and due process;
3. to ensure that all Councillors have an equal opportunity to participate in the meeting to the fullest extent possible, with respect being accorded to the expression of differing views;
4. to ensure that all Councillors fully understand their rights and obligations as participants in meetings of Council; and
5. to ensure that proceedings are transparent and understandable to all persons participating in and observing meetings of Council and its Committees.

## 3. DEFINITIONS

<b>Act and LGA</b>	Local Government Act 1993
<b>Regulation and LGR</b>	Local Government (General) Regulation 2005
<b>Mayor</b>	means the person elected annually to the office of Mayor by Councillors pursuant to Section 227(a) of the Local Government Act, 1993.
<b>Chair</b>	means the person presiding over the meeting (also see Clause 2.1 and Clause 9.7 of this Code)
<b>Committee of the Council</b>	in relation to the Council, means a Committee appointed or elected by the Council in accordance with Clause 260 of the Local Government (General) Regulation 2005 or the Council when it has resolved itself into Committee of the Whole
<b>Councillor</b>	means a person elected or appointed to civic office as a member of the governing body of the Council and includes the Mayor;
<b>Deputy Mayor</b>	means the person elected annually by the Councillor to the office of Deputy Mayor.
<b>General Manager</b>	the person appointed by the Council to the office of General Manager or the person delegated to act as General Manager by the General Manager in his/her absence.
<b>Present</b>	<i>(at a meeting or discussion)</i> includes being within the Council Chamber or meeting room or on-site <i>(with respect to site meetings convened by Council)</i> during the meeting, discussions or site visit.

<b>Meeting</b>	includes a Council Meeting, Special Council Meeting, Committee Meeting or any meeting called by a resolution of the Council ( <i>including a site meeting or any other meeting where Council business is discussed</i> ).
<b>Members</b>	means a Councillor in terms of the Local Government Act or a person appointed by the Council to a Committee.
<b>Misbehaviour</b>	for the purposes of Local Government (General) Regulation means, any of the following: (a) a contravention by the Councillor of the Act or the regulations, (b) a failure by the Councillor to comply with an applicable requirement of a code of conduct as required under section 440(5) of the Act, (c) an act of disorder committed by the Councillor at a meeting of the Council or a Committee of the Council, but does not include a contravention of the disclosure requirements.
<b>Notice of Motion</b>	means a proposal in writing signed by a Councillor to move a stated motion at a meeting of the Council, notice of which is given in the Business Paper for the meeting.

## **POLICY**

### **PART 1 - BEFORE THE MEETING**

#### **1.1 Holding meetings**

There are two types of Council meetings:

##### **1.1.1 Ordinary Meetings**

In accordance with s365 of the Act, Council is required to meet at least 10 times each year, each time in a different month.

##### **1.1.2 Times of Ordinary Meetings**

Council's Ordinary Meeting is held on the third Thursday of each month, excluding January. The Ordinary Meeting commences at 1:00pm. All Council meetings shall cease at 6.30pm provided a procedural motion may be carried to extend business beyond 6.30pm if not to do so would unreasonably delay the business.

##### **1.1.3 Special (*Extraordinary*) Meetings**

Extraordinary meetings are held irregularly, generally in response to a particular event or emergency. They may only occur through specific request as permitted under Clause 1.3 of this Code. Extraordinary meetings are not only held in 'extraordinary' circumstances. These meetings are usually held to deal with special business or where there is so much business to be dealt with that an additional meeting is required.

#### **1.2 Notice of meetings**

The General Manager must send to each Councillor, at least three (3) days before each meeting of the Council (*or Committee*), a notice specifying the date, time and place of the meeting and the business proposed to be transacted at the meeting. Notice of less than three (3) days may be given of an extraordinary meeting called in an emergency. Notice of meetings of Council shall be published in the *Forbes Advocate*. A Council decision will still be valid even if proper notice has not been given for the meeting in which the decision was made.

(Section 374 of the Act)

#### **1.3 Calling of Extraordinary Meeting**

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 within 14 days after receipt of the request (s. 366 of the Act).

The Mayor may call an extraordinary meeting for matters of urgency or emergency. The Mayor will determine when a situation is urgent or an emergency. If called in an emergency, notice of less than 3 days may be given. The request for an extraordinary meeting must clearly state the business proposed to be transacted and any motion proposed to be moved.

The business paper for an extraordinary meeting must only include the matters stated in the notice of the meeting. However, matters not on the business paper may be considered at the meeting in the circumstances set out in Clause 1.8 of the Code.

Public notice will be given of the time and place of the extraordinary meeting in accordance with the s.9 of the Act.

## **1.4 Want of service of notice**

Failure to receive a notice on the part of any member shall not affect the validity of any ordinary or adjourned or special/extraordinary meeting of Council or any Committee meeting.

## **1.5 Agenda and business papers for council meetings**

- (1) The General Manager must ensure that the agenda for a meeting of the council states:
  - (a) all matters to be dealt with arising out of the proceedings of former meetings of the council,
  - (b) if the Mayor is the Chair - any matter or topic that the Chair proposes, at the time when the agenda is prepared, to put to the meeting,
  - (c) subject to subclause (1.5.2), any business of which due notice has been given.
- (2) The General Manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council.
- (3) The General Manager must cause the agenda for a meeting of the Council or a Committee of the Council to be prepared as soon as practicable before the meeting and in accordance with Council's policy on the preparation of business papers.
- (4) The General Manager must ensure that the details of any item of business that, in the opinion of the General Manager, is likely to take place when the meeting is closed to the public, are indicated in the agenda (but must not give details of that item) and the requirement of business papers being available for the public does not apply to those items of business in accordance with s.9(2A) of the Act.
- (5) Nothing in this clause limits the powers of the Chair under Clause 2.8 (*Mayoral Minute*).
- (6) To allow for printing and distribution, the following procedures shall apply for the preparation of the business papers:-
  - (a) All items (*reports, correspondence, etc*) must be submitted to the Executive Secretary by no later than 12:00 noon on the second Tuesday of each month.
  - (b) Later items deemed by the General Manager or the Mayor to be urgent may be submitted to any meeting even though not included in the business paper.



## **1.6 Councillors Reports**

Any Councillor reports intended for the consideration of Council shall be received by the General Manager in accordance with Council's policy on the preparation of business papers. Reports and Recommendations shall be relevant to matters within legal jurisdiction of the Council.

## **1.7 Late items of business**

Any business of Council that arises after the business paper has been finalised and circulated to Councillors, that the Mayor or General Manager considers urgent, may be presented to the meeting as a Supplementary Business Paper and shall be dealt with unless Council resolves otherwise.

## **1.8 Business without notice**

- (1) Business of which notice has not been given in the business paper may be brought forward and considered at any meeting. However, this can happen only if:
  - (a) a motion is passed to have the business transacted at the meeting, and
  - (b) the business proposed to be brought forward is ruled by the Chair to be of urgency.

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

- (2) Despite Clause 2.10.2 (Limitation on Number of Speeches), only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.

(Clause 241 of the Regulation)

## **1.9 Order of business**

### **1.9.1 Agendas for Ordinary Meetings**

- (1) For all ordinary meetings of Council, except the meeting held in September each year for the election of Mayor by the Councillors, the general order of business shall be:
  1. Election of Chair (in the case of neither the Mayor or Deputy Mayor being present)
  2. Prayer
  3. Acknowledgement of Country
  4. Confirmation of Minutes
  5. Apologies
  6. Condolences
  7. Provision for Address to Council
  8. Unopposed Business – Chair calls for Withdrawals
  9. Business Withdrawn, (*in order of Business Paper*)
  10. Supplementary Business Paper – Business Without Notice (*green*) – (*brought forward by the Mayor*)
  11. Questions Without Notice
  12. Business Without Notice
  13. Motion to Exclude Public and Press from Meeting of Committee of the Whole
  14. Motion to Adjourn Open Council Meeting.
  15. Machinery Motion (*For all items not withdrawn*)
  16. Business Withdrawn, (*in order of Business Paper*)
  17. Questions Without Notice
  18. Business Without Notice, (*blue*) – *brought forward by the Mayor* – mentioned in Ordinary Meeting Business Paper
  19. Close Confidential Section
  20. Machinery Motion (*For all items not withdrawn*)

21. Resume Open Meeting
22. Close Meeting

### **1.9.2 Changing the order of business**

- (1) The Chair may, at the request of any members and with the consent of the meeting, alter the order of business at any meeting.
- (2) The order of business may be altered if a motion to that effect, which may be moved without notice, is carried. Only the mover of the motion may speak to it before it is put to the meeting.

### **1.9.3 Agendas of Extraordinary Meetings**

- (1) The General Manager must ensure that the agenda for an extraordinary meeting of Council deals only with the matters stated in the notice of the meeting.
- (2) Despite Section 1.9.3(1), business may be transacted at an extraordinary meeting of a Council even though due notice of the business has not been given to Councillors, as business without notice in accordance with Clause 1.8.

(Clause 242 of the Regulation)

## **1.10 Public access to agendas and business papers**

The Agenda and Business Paper , excluding reports for matters considered when part of the meeting is closed to the public, , shall be available for perusal by any member for the public at the Council Chambers, Forbes Library and on Council's website ([www.forbes.nsw.gov.au](http://www.forbes.nsw.gov.au)).

Upon request, Council must also supply copies of Agendas and Business Papers, in accordance with the Government Information (Public Access) Regulation 2009 Schedule 5.

## **1.11. Availability of Agendas, Reports and Other Items of Business:**

Copy of the current documents will be provided at a fee. This fee is to be fixed by Council when it determines fees and charges annually. Copies of previous documents are to be provided on request at a charge per copy to cover copying costs. This charge is to be fixed by Council when it determines fees and charges annually.

## **PART 2 - AT THE MEETING: GENERAL**

### **2.1 Election of Chair**

- (1) If the Mayor and Deputy Mayor are both absent, the first business of the Council meeting shall be the election of a Chair for the meeting.
- (2) If both the Mayor and Deputy Mayor are absent, a Councillor elected (by the Councillors present at a meeting) to chair the meeting by the councillors present presides at a meeting of the council until the Mayor or in the case of prolonged absence, the Deputy Mayor, arrives
- (3) The election shall be conducted by the General Manager or in their absence by the person acting on the General Manager's behalf.

### **2.2 Precedence of the Chair**

When the Chair rises in their place during the progress of debate, any member then speaking or offering to speak shall immediately resume his/her seat and every member shall be silent so that the Chair may be heard without interruption.

## **2.3 Protocol of addressing Council**

In making an address, Councillors must be addressed as 'Councillor X'. If the Chair is the Mayor he or she should be addressed as 'Mr. Mayor' or 'Madam Mayor'. When the Chair is not the Mayor they should be addressed as Mr. or Madam Chair. Officers must be addressed as their job title e.g. General Manager.

With the exception of the Chair, all Councillors or Officers shall stand while speaking (*unless physically prevented*) and shall only speak when recognised by the Chair.

## **2.4 Councillor accountability - open decision-making**

Open decision-making is an important part of local government and should be the rule rather than the exception. The ability of the public and media to attend and watch council and committee meetings - seeing the deliberations and decisions of elected representatives - is essential for councillor accountability. This is recognised by the legislation, which encourages open decision-making at council meetings.

Councillors should be prepared to state their views publicly on both controversial and routine issues. Informed voting by electors is best achieved when they can observe the speeches, debate and voting patterns of their councillors.

Council decisions should be based on fairness, impartiality, objectivity and consideration of all the issues (Sections 4 and 6 of Council's Model Code of Conduct). Open decision-making helps achieve this, as well as preventing misunderstanding and unfounded criticisms from the public.

## **2.5 Business at Council meetings**

- (1) Business which a councillor has given written notice of within the required time before the meeting and of which notice has been given to Councillors (Section 367 of the Act);
- (2) Business that is already before the council or directly relates to a matter that is already before the council. For example, business that was discussed at the last council meeting, or business in a report made by Council staff in response to an earlier Council request for a report;
- (3) The election of a Chair for the meeting;
- (4) A matter raised in a Mayoral Minute;
- (5) A motion to adopt committee recommendations;
- (6) Business ruled by the Chair to be of great urgency but only after a motion is passed to allow this particular business to be dealt with. This motion can be moved without notice.
- (7) In the case of an urgent matter which, does not require or allow for the calling of an Extraordinary Meeting, the General Manager may circulate to all Councillors a report and or recommendation requiring their consent or objection by return of email. In such cases the resolution will be formally ratified at the next Ordinary Meeting.
- (8) Business which does not fall within any of the above categories should not be transacted at a meeting.

## **2.6 Unopposed business**

The Chair may call over the business in the order it appears in the business paper and if no objection is raised to the recommendations therein, may put a motion that the recommendation be adopted without discussion, to the vote (Machinery Motion, see clause 5.8 of this Code).

## **2.7 Questions at Council meetings**

### **2.7.1 Questions may be put to Councillors and Council employees**

- (1) A Councillor:
  - (a) may, through the Chair, put a question to another Councillor; and
  - (b) may, through the General Manager, put a question to a Council officer.
- (2) However, a Councillor or Council officer to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.
- (3) The Councillor must put every such question directly, succinctly and without argument.
- (4) The Chair must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council officer under this section.

(Clause 249 of the Regulation)

### **2.7.2 Questions may not ask for**

- (1) Expressions of opinion of a political nature; legal opinions; confirmation of rumours or press reports.
- (2) Questions are not to be used as a means of cross-examination of Officers or Councillors.

## **2.8 Committees of the Whole**

- (1) Council may resolve itself into Committee of the Whole (commonly referred to as 'moving into committee' or 'open discussion') to consider any matter before Council (s.373 of the Act). The purpose of taking the meeting into Committee of the Whole is to allow a matter to be discussed less formally, without strict adherence to the rules of debate and other procedural requirements (refer to Limitation on Number of Speeches, Clause 2.10.2 of this Code). The extent to which a departure from those rules and requirements may be allowed is a matter for the Chair of the meeting. However, the provisions of this Code as to acts of disorder and disorderly conduct (see Part 8 of this Code) would normally still apply.
- (2) All the provisions of this Code relating to meetings of Council, so far as they are applicable, extend to and govern the proceedings of the Council when in Committee of the Whole, except the provision limiting the number and duration of speeches. (Clause 259(1) of the Regulation)
- (3) The General Manager or, in the absence of the General Manager, an officer of Council designated by the General Manager, is responsible for reporting to Council proceedings in Committee of the Whole. It is not necessary to report the proceedings in full but any recommendations of the Committee must be reported. (Clause 259(2) of the Regulation)
- (4) Council must ensure that a report of the proceedings (including any recommendations of the Committee) is recorded in Council's minutes. However, Council is not taken to have adopted the report until a motion for adoption has been made and passed. (Clause 259(3) of the Regulation)

## **2.9 Mayoral minutes**

If the Mayor is the Chair, the Mayor is entitled, in accordance with Clause 243 of the Regulation, to put to a meeting, with or without notice, a signed minute on matters within the Council's knowledge or jurisdiction. Such minutes take precedence over all other business other than confirmation of minutes of previous meetings. The Mayor can move adoption of the minute without a seconder.

If a recommendation made in a Mayoral Minute is adopted by the Council, in full or in part, it is a resolution of the Council so far as adopted.

## **2.10 Voting**

### **2.10.1 Voting by Councillors**

- (1) Each Councillor is entitled to one vote.
- (2) The Chair has, in the event of an equality of votes, a second or casting vote.
- (3) Upon every vote being taken all Councillors and Committee members shall vote for or against the motion. Any Councillor or Committee member who is present at a meeting but fails to vote is taken to have voted against the motion. Any Councillor may require that his/her name be recorded as voting against the final motion.
- (4) The Chair shall declare the result of the vote. The decision of the Chair is final unless at least two (2) Councillors challenge the decision by rising and demanding a division. The division shall be taken by asking Councillors to vote by standing instead of by a show of hands.
- (5) When a division on a motion is demanded, the Chair must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the minutes. (Clause 251(4) of the Regulation)
- (6) A division is required to be called at any meeting of Council or its Committees whenever a motion is put relating to a planning decision. In such instances the minutes must record the names of Councillors who supported the decision and those Councillors who opposed the decision. (Section 375A of the Act)
- (7) Voting at a Council meeting, including voting in an election at such meeting, is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in any election by Councillors for Mayor or Deputy Mayor is to be by secret ballot. (Clause 251(5) of the Regulation)
- (8) A Councillor must be present at a meeting to vote. Councillors cannot participate in a meeting by video-conferencing or tele-conferencing.

### **2.10.2 Limitation on number of speeches**

- (1) The mover of the original motion shall have the right of general reply to all observations made by any Councillor in reference to the original motion and to speak once to any amendment thereto and every other amendment. The right of this reply is not to introduce new matter into the debate.
- (2) A Councillor, other than the mover of an original motion, has the right to speak once upon the motion and once on each amendment except where consent of council is otherwise given.
- (3) A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time.

However, the Chair may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

- (4) Despite subclauses (1) and (2), a Councillor may move that a motion or an amendment be now put:
  - (a) if the mover of the motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it, or
  - (b) if at least 2 Councillors have spoken in favour of the motion or amendment and at least 2 Councillors have spoken against it.
- (5) The Chair must immediately put to the vote, without debate, a motion moved under subclause (4). A seconder is not required for such a motion.
- (6) If a motion that the original motion or an amendment be now put is passed, the Chair must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause (1).
- (7) If a motion that the original motion or an amendment be now put is rejected, the Chair must allow the debate on the original motion or the amendment to be resumed.

(Clause 250 of the Regulation)

## **2.11 Casting vote of Chair**

Chair may exercise a second or casting vote in the event of there being an equality of votes. It is a matter for the Chair as to how they will vote, after taking into consideration all relevant information. They do not need to vote the same way on their deliberative and casting vote. They may also choose not to exercise a casting vote. In this case, in accordance with Section 371 of the Act, a decision of the Council is not made, so the motion is recorded as “not carried”. In the event of an amendment being “not carried” in such circumstances, the consideration of the Council will then be given to the motion.

## **2.12 Decisions of Council**

- (1) A decision of Council is one supported by a majority of the votes at a meeting of the Council at which a quorum is present.
- (2) If a recommendation made in a Mayoral Minute, a report by a Council officer or the minutes of a Committee meeting is adopted by the Council, in full or in part, it is a resolution of the Council.

## **2.13 Defamatory statements**

A Councillor shall not make personal reflections on or impute improper motives to another Councillor or Council officer. Such shall be deemed an act of disorder and be subject to the disorder provisions of this Code (refer to Part 8 of this Code).

## **2.14 Formalising mayoral actions**

- (1) The Mayor, when deemed necessary, may exercise the policy-making functions of the Council between meetings. (Section 226 of the Act)

- (2) In instances where the Mayor has exercised their delegation in accordance with Clause 2.14(1) of this Code, a report on these actions may be submitted to the next meeting of Council.

## **2.15 Correspondence and petitions**

- (1) The business paper may include any correspondence or petitions which, in the opinion of the General Manager or the Mayor, should be brought to the attention of the Council. Such correspondence or petitions would be subject to the provisions of the *Privacy and Personal Information Protection Act 1998*.
- (2) The Mayor or a Councillor may table original petitions at meetings of Council. If notice of the petition has not been given, Council must not discuss the matter, unless a motion is passed in accordance with Clause 5.9 (Notice of Motion). Alternatively Council may resolve to receive and note the petition or to include the petition on the agenda of the next meeting of Council or the relevant Committee.

## **2.16 Public questions and addresses**

- (1) In accordance with Council's *Public Forum Policy*, Council permits members of the public to address Council in open forum at every Ordinary Meeting so that members of the public may have direct input into matters before Council. The main objectives of the public forum are:
  - a) to improve communication and public relations between Council and Shire residents;
  - b) to allow residents to address Council on a direct basis on matters of concern to them; and
  - c) to help Council in the decision making process.
- (2) Members of the public addressing Council must abide by similar standards that apply to Councillors under the Council's Code of Conduct and this Code of Meeting Practice.
- (3) If a member of the public addressing the meeting fails to comply with the Chair's call to order, the Chair may withdraw that person's right to address the meeting.

## **2.17 Audio or visual recording of meetings**

In accordance with Clause 273 of the Regulation:

- (1) A person may use a tape recorder to record the proceedings of a meeting of a council or a committee of a council only with the authority of Council or Committee.
- (2) A person may, as provided by s10(2)(a) or (b) of the Act, be expelled from a meeting of Council or Committee of Council for using or having used a tape recorder in contravention of this clause.
- (3) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by Council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.
- (4) In this clause, *tape recorder* includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

## **PART 3 - CONFLICTS OF INTERESTS (PECUNIARY AND NON-PECUNIARY)**

### **3.1 What is a pecuniary interest**

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated. Refer to Council's *Code of Conduct* for more information on pecuniary and non-pecuniary interests.

### **3.2 Disclosure and presence in meetings**

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

### **3.3 Disclosures to be recorded**

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

### **3.4 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 Council or Council committee after the date of the notice.

### **3.5 Disclosure by adviser**

A person who, at the request or with the consent of Council or a Council committee, gives advice on any matter at any meeting of Council or committee must disclose the nature of any pecuniary or non-pecuniary

### **3.6 Circumstances where disclosure rules are not breached**

A person does not breach Section 451 or 456 of the Act (Clauses 3.2 and 3.5 of this Code) if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.



## **PART 4 - QUORUM AND ATTENDANCE**

### **4.1 Quorum**

- (1) The quorum for a meeting of Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office. The quorum of Council shall be five (5) Councillors. The quorum for Council committees is according to the constitution of the committee.
- (2) A meeting of the Council must be adjourned if a quorum is not present within half an hour after the designated starting time, or at any time during the meeting. The meeting must be adjourned to a time, date and place fixed by the Chair, or in their absence by the majority of Councillors present or, failing that, by the General Manager.
- (3) The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of Council, together with the names of the Councillors present.

### **4.2 In House/Site Meetings & Committee Meetings with Delegated Authority**

Where Council grants delegated authority to a site meeting/in-house meeting of Councillors to determine a matter, the quorum for the exercise of delegation shall be seven (7) Councillors.

### **4.3 Adjourning meetings**

A motion to adjourn a meeting may be moved at any time, and must be put to the meeting without discussion. If the motion is defeated, no further such motion may be moved until half an hour has elapsed since the last motion was moved.

If, part way through a meeting, the meeting is adjourned (for example because a quorum ceases to be present or because of time constraints) the meeting will recommence at the time and place that it is adjourned to. An adjourned meeting is a continuation of the earlier part of the same meeting, not a new meeting, therefore new business papers are not required.

### **4.4 Attendance at meetings**

#### **4.4.1 Who is entitled to attend Council meetings**

- (1) Everyone is entitled to attend meetings of Council and its Committees of which all the members are Councillors, except in the limited circumstances when a meeting is closed to the public in accordance with s.10A of the Act.
- (2) A person (whether a Councillor or another person) is not entitled to be present at a meeting of Council or its committees if expelled from the meeting:
  - (a) by a resolution of the meeting, or
  - (b) by the person presiding at the meeting if Council has, by resolution, authorised the person presiding to exercise the power of expulsion.
- (3) A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the Regulations.  
(Section 10 of the Act)

#### **4.4.2 Councillor attendance at meetings**

- (1) A member shall not be deemed to be present at any meeting unless he/she is within the Council Chamber or the place designated in the notice of the meeting as the place where the meeting is to be held.
- (2) A civic office becomes vacant if the holder (*Councillor*) is absent from three (3) consecutive ordinary meetings of the council (unless the holder is absent because he or she has been suspended from office under s.482 (*Pecuniary interest disciplinary order*) without:
  - (i) prior leave of the council, or
  - (ii) leave granted by the council at any of the meetings concerned.

(Section 234(1)(d) of the Act)

#### **4.4.3 Application for leave of absence**

For the purposes of Clause 4.4.2(2)(ii) of this Code, a Councillor applying for a leave of absence from a meeting of Council does not need to make the application in person and the council may grant such leave in the absence of that Councillor. (s.234(2) of the Act)

#### **4.4.4 Attendance of General Manager at meetings**

- (1) The General Manager is entitled to attend, but not vote, at Council meetings. However, Council may resolve to exclude the General Manager from the meeting for matters dealing with the General Manager's employment or standard of performance. (s.376 of the Act)
- (2) The General Manager is entitled to attend a meeting of any other Committee of the Council and may, if a member of the Committee, exercise a vote.

## **PART 5 - MOTIONS AND AMENDMENTS**

### **5.1 Dealing with motions**

- (1) A motion or an amendment cannot be debated unless there is a 'mover' and 'seconded' (Clause 246 of the Regulation). The mover puts forward the motion and if a second person agrees with it, debate on the motion can begin.
- (2) The mover has the right to speak first, and to a general 'right of reply' at the end of the debate (Clause 250 of the Regulation). No new arguments or material should be argued during the 'right of reply'.
- (3) The seconder of the motion speaks after the mover, but may choose to hold over their speaking rights until later in the debate. However a procedural motion could be passed, putting an end to debate before the seconder has spoken.
- (4) Councillors are asked to speak for and against the motion, usually in the order of one speaker for the motion and one speaker against the motion. Debate may end by completing the list of speakers who want to speak for or against the motion, the time allowed for debate finishing, the (limited) number of speakers allowed to speak on the motion having been reached, or where a procedural motion 'that the question be put to the vote' has been successful.
- (5) At the end of the debate, the Chair puts the motion to the meeting for vote. The Chair will then declare the result of the vote. If passed by the majority, the motion becomes a formal resolution of council. The decision is final, unless it is immediately challenged by two (2) or more councillors who rise and demand a division on the motion (refer to Clause 2.10.1 of this Code).

## **5.2 How motions should be worded**

- (1) A motion should start with the words 'That Council', for example, '*That Council close road XX*'. Motions should be clear, brief and accurate. A Councillor may use sub-sections, numbered paragraphs or the like to make sure that the motion is easy to understand. A Councillor could submit more than one motion on the same topic.
- (2) Motions should be phrased in a positive sense so that a 'yes' vote indicates support for action, and a 'no' vote indicates that no action should be taken. A motion should be full and complete, so that when the motion or resolution is read in the future, its intention is clear.
- (3) A motion which is vague or ambiguous shall be rejected by the Chair.

## **5.3 Chair's duty with respect to motions**

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

(Clause 238 of the Regulation)

## **5.4 Amendments to motion**

- (1) An amendment may be moved after any motion is moved and seconded, provided that only one amendment shall be before the Council at any one time.
- (2) No amendment can be moved after the first amendment is considered unless it has been foreshadowed (refer to Clause 5.6 of this Code).
- (3) An amendment shall not be the direct negative of the motion.

## **5.5 How subsequent amendments may be moved**

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

## **5.6 Foreshadowing another motion**

- (1) Any Councillor may, after a motion has been moved and seconded, foreshadow an intention to move a further motion before the motion before Council has been voted on.
- (2) It is out of order to propose a foreshadowed motion that is, in effect, similar to the one already before Council.

## **5.7 Motions of dissent**

- (1) Any member of Council or Committee may, without notice, move to dissent from the ruling of the Chair on a point of order and thereupon the business before the meeting shall be suspended pending the decision on the question of dissent.

- (2) Where the dissent motion is carried, business shall proceed as though the ruling had not been given and any business ruled out of order shall be reinstated to the business of the meeting.
- (3) Notwithstanding any provisions to the contrary in this Code, only the mover of the dissent motion and the Chair may speak to the motion. The mover of the motion does not have a right of reply.

(Clause 248 of the Regulation)

## **5.8 Machinery motion**

This means that all recommendations in the business paper reports and correspondence, not separately withdrawn and discussed, are adopted by Council, unless specific items are excluded, at the time the "Machinery Motion" decision is taken.

## **5.9 Notice of motion**

- (1) A Councillor may give notice of business for a Council Ordinary Meeting by sending or giving a Notice of Motion to the General Manager no later than the Wednesday of the week prior to the meeting. A Notice of Motion for Extraordinary Meetings of Council should be submitted to the General Manager as soon as possible after a decision has been made to request a meeting.
- (2) All Notices of Motion shall be dated and numbered as received and shall be entered by the General Manager upon the business paper in the order in which they are received. Except by permission of Council, all such Notices of Motion will be taken and considered in the order in which they appear on the business paper.
- (3) A Councillor may withdraw a Notice of Motion before it is placed on the agenda.
- (4) The General Manager may not include in the Council or Committee business paper any Notice of Motion which, in their opinion, is considered to be unlawful.

## **5.10 Notice of motion - absence of mover**

In the absence of a Councillor who has placed a notice of motion on the agenda for a meeting of a Council:

- (a) any other Councillor may move the motion at the meeting; or
- (b) the Chair may defer the motion until the next meeting of the Council at which the motion can be considered.

(Clause 245 of the Regulation)

# **PART 6 - RESCISSION MOTIONS**

## **6.1 Rescinding or altering resolutions**

In accordance with Section 372 of the Act:

- (1) A resolution passed by Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with Clause 5.9 of this Code (Notice of Motion).
- (2) If Notice of Motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

- (3) Notice of Motion to rescind a resolution at the meeting at which the resolution is carried may be given by giving the Chair 10 minutes notice. The resolution must not be carried into effect until the motion of rescission has been dealt with.
- (4) If a motion has been resolved in the negative by Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with Clause 5.9 of this Code (Notice of Motion).
- (5) 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 resolved in the negative by Council, must be signed by three (3) Councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost, as the case may be.
- (6) If a motion to alter or rescind a resolution has been resolved in the negative, or if a motion which has the same effect as a motion previously resolved in the negative, is resolved in the negative, no similar motion may be brought forward within three (3) months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.
- (7) A motion to which this section applies may be moved on the report of a Committee of Council and any such report must be recorded in the minutes of the meeting of Council.
- (8) The provisions of this section concerning motions resolved in the negative do not apply to motions of adjournment.

## **6.2 Lodging and dealing with rescission motions**

- (1) A Notice of Rescission shall be dealt with at the next Council meeting after it is lodged so that the business of Council will not be unreasonably delayed.
- (2) Rescission motions in respect of rezoning, development, subdivision and building matters must be duly signed and delivered to the General Manager no later than 3 working days (Resolution 215, 20 July 2017, Cr J Nicholson/Cr S Chau). ~~12 noon on the day~~ following the meeting at which the decision was made. Any rescission motion delivered after this time will be ruled out of order. The motion will be dealt with at an Extraordinary Meeting of Council called for that purpose. A notice of rescission may be accompanied by a qualified motion outlining any alternative proposal.
- (3) Where a Notice of Rescission is intimated during the meeting in respect of a resolution but not handed in during the meeting, such resolution shall not be carried into effect until after 5:00pm the business day following the meeting, provided further that a Notice of Rescission may be submitted (*even though not intimated*) up to 5:00pm the business day following the meeting and upon receipt by the General Manager the resolution shall not be implemented.
- (4) Rescission motions must be received within three (3) working days of Council meetings for tenders. (Resolution 215, 20 July 2017, Cr J Nicholson/Cr S Chau).

## **6.3 Motions or amendments out of order**

Whenever it has been decided by the meeting that any motion or amendment or other matter is out of order, the same shall be rejected and not further considered.

## **6.4 Implied rescission**

Council may review, amend, or update its policies and codes from time to time without expressly rescinding earlier decisions taken more than three (3) months before.

## **PART 7 - CLOSED PARTS OF MEETINGS**

### **7.1 Closed meeting**

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

- (a) the discussion of any of the matters listed in Clause 7.2 of this Code; or
- (b) the receipt or discussion of any of the information so listed.

### **7.2 Subject matter of closed meetings**

- (1) In accordance with Section 10A of the Act, the following matters and information may be considered by Council in part of the meeting closed to the press and public.
  - (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 or 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 any code of conduct requirements applicable under section 440 of the Act.
- (2) A Council, or a Committee of the Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.
- (3). A Council, or a Committee of a Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

### **7.3 Limitations to closing meetings**

A meeting is not to remain closed during the discussion of anything referred to in Section 10A(2) of the Act:

- (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. (Section 10B(1) of the Act)

### **7.3.1 Discussion of legal matters**

A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2) (g) unless the advice concerns legal matters that:

- (a) are substantial issues relating to a matter in which the council or committee is involved, and
- (b) are clearly identified in the advice, and
- (c) are fully discussed in that advice. (Section 10B(2) of the Act)

### **7.3.2 Motions to close other parts of a meeting**

If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in Section 10A(3) of the Act), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A(2)). (Section 10B(3) of the Act)

### **7.3.3 Matters of public interest**

For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:

- (a) a person may misinterpret or misunderstand the discussion; or
- (b) the discussion of the matter may:
  - (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. (Section 10B(4) of the Act)

## **7.4 Representation by public before a council meeting is closed**

A Council, or a Committee of 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. (Section 10A(4) of the Act)

## **7.5 Department guidelines for meeting closure**

In deciding whether part of a meeting is to be closed to the public, Council or Committee concerned will have regard to any relevant guidelines issued by the Director-General. (Section 10B(5) of the Act)

## **7.6 Specifying grounds for closing meetings**

- (1) The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.
- (2) The grounds must specify the following:
  - (a) the relevant provision of Section 10A(2);

- (b) the matter that is to be discussed during the closed part of the meeting; and
- (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. (Section 10D of the Act)

## **7.7 Notice of closure not required in urgent cases**

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

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

## **7.8 Resolutions to be made public**

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

(Clause 253 of the Regulation)

# **PART 8 - ORDER AT MEETINGS**

## **8.1 Standards of conduct**

Councillors, employees of Council and other persons at the meeting are required to observe the Code of Meeting Practice at all meetings of Council. Failure on the part of a Councillor or an employee to observe the Code of Meeting Practice may be subject to a complaint under the Code of Conduct.

## **8.2 Questions of order**

- (1) The Chair without the intervention of any other Councillor or member of a Committee may call any Councillor or Committee member to order if the necessity arises.
- (2) Any Councillor or Committee member who considers any other Councillor or Committee member has committed an act of disorder, or is out of order, may call the matter to the attention of the Chair.
- (3) The Chair must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of Council.
- (4) The Chair's ruling shall be obeyed unless a motion of dissent there from is carried. Failure to obey the Chair's ruling shall be itself an act of disorder.



- (5) Any person who having been called to order by the Chair wilfully commits a further breach of order shall be guilty of an offence and subject to the provisions of the Local Government Act and this Code.
- (6) The provisions of the Act, and of this Regulation relating to the maintenance of order in Council meetings shall apply to meetings of Committees of the Council in the same way as they apply to the meetings of the Council.

(Clause 270 of the Regulation)

### **8.3 Acts of disorder**

In accordance with Clause 256 of the Regulation:

A Councillor commits an act of disorder if the Councillor at a meeting of a Council or a Committee of Council:

- (i) contravenes the Act or any regulation in force under the Act;
- (ii) assaults or threatens to assault another Councillor or a person present at the meeting;
- (iii) 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 Council or a Council Committee or addresses or attempts to address Council or a Council Committee on such a motion amendment or matter;
- (iv) insults or makes personal reflections on or imputes improper motives to any other Councillor, Council officer or member of the public; or
- (v) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring Council or a Council Committee into contempt.

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

- (1) The Chair may require a Councillor or Committee member to:
  - (i) Apologise without reservation;
  - (ii) To withdraw a motion or amendment that is out of order and apologise without reservation; or
  - (iii) To withdraw the statement and apologise without reservation.
- (2) If disorder occurs at a meeting of a Council, the Chair may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, on reassembling, must, on a question put from the Chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors.
- (3) With reference to Clause 8.5 of the Code, a member of the public may , be expelled from a meeting of a council for engaging in or having engaged in disorderly conduct at the meeting.

### **8.5 Power of expulsion**

The Council, by this Code, authorises the person presiding at any meeting of Council or any Committee of the Council to exercise the power of expulsion as provided by Section 10(2) of the Act.

### **8.6 Expulsion from meetings**

- (1) Any person who is not a Councillor may be expelled from a Committee meeting or part of a Committee meeting which has been closed to the public in accordance with Section 10A(2) of the Act and Clause 1.8 of the Code.
- (2) Any Councillor or other Committee member who after having been warned by the Chair commits three (3) Acts of Disorder during the meeting of Council or the Committee shall be thereupon expelled from the meeting for the duration of the meeting.
- (3) Expulsion of a Councillor from a meeting does not prevent the taking of other actions for disorder such as formal complaints to the Division of Local Government, the ICAC or prosecution.
- (4) Once expelled, a Councillor cannot go back into that meeting whether or not they withdraw the statement and apologise. The Councillor may attend the next and subsequent meetings if no further resolutions are carried.

Such expulsion does not prevent other action being taken for an Act of Disorder.

## **8.7 Power to remove persons from meeting after expulsion**

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

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

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

(Clause 258 of the Regulation)

## **8.8 Certain persons may be expelled from council committee meetings**

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

# **PART 9 - COMMITTEES, THEIR MEMBERS AND FUNCTIONS**

## **9.1 Forming committees**

- (1) Council may, by resolution, form any number of Committees it deems necessary to assist in the conduct of Council business.
- (2) A Council Committee is to consist of the Mayor and such other Councillors as are elected by the Councillors or appointed by Council.

(Clause 260(2) of the Regulation)

- (3) Council shall determine the membership and voting rights of each Committee, provided any Councillor who is appointed as a member of a Committee shall be entitled to vote.
- (4) Council shall determine the purpose of each Committee and the duration of its existence.
- (5) Council shall nominate the Committee Chair.

## **9.2 Functions of committees**

- (1) Council must specify the functions of each of its committees when the committee is established, but may, from time to time, amend those functions.

Clause 261 of the Regulation)

- (2) A Committee of Council shall not have power to incur expenditure or to bind Council unless given specific delegated authority from Council.

## **9.3 Notice of committee meetings to be given**

- (1) The General Manager must send to each Councillor, at least three (3) days before each meeting of the Committee, a notice specifying:

- (a) the time and place at which and the date on which the meeting is to be held, and
- (b) the business proposed to be transacted at the meeting.

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

(Clause 262 of the Regulation)

## **9.4 Quorum for committees**

- (1) The quorum for a meeting of a Council Committee is to be:
  - (a) such number of members as Council decides and as verified by the committee constitution; or
  - (b) if Council has not decided a number – a majority of the members of the Committee.

(Clause 260(3) of the Regulation)

- (2) A Chair of a Council Committee may cancel or postpone a Committee Meeting if the Chair becomes aware, through the submission of written apologies, that a quorum for the said meeting will not be reached.
- (3) A Chair invoking the provision of Clause 9.2(2) of this Code must ensure all members of the Council Committee are notified of the cancellation/postponement of the meeting. The Chair must also ensure that a notice is displayed at the planned meeting venue indicating the Committee Meeting has been cancelled/postponed and if a new date/time for the meeting has been set, displaying that date/time.

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

- (1) A Councillor who is not a member of a Committee of Council is entitled to attend, and to speak at, a meeting of the committee.
- (2) However, the Councillor is not entitled:

- (a) to give notice of business for inclusion in the agenda for the meeting;
- (b) to move or second a motion at the meeting; or
- (c) to vote at the meeting.

(Clause 263 of the Regulation)

## **9.6 Procedure in Committees**

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

(Clause 265 of the Regulation)

- (4) The procedure to be followed by each Committee is to be, insofar as is practicable, in accordance with this Code.

## **9.7 Chair and deputy chair of committees**

- (1) The Chair of each committee of Council must be:
  - (a) the Mayor;
  - (b) if the Mayor does not wish to be the Chair of the committee - a member of the committee elected by Council; or
  - (c) if Council does not elect such a member - a member of the committee elected by the committee.
- (2) Council may elect a member of a committee of Council as Deputy Chair of the committee. If Council does not elect a Deputy Chair, the committee may elect the position.
- (3) If neither the Chair nor the Deputy Chair of a Committee of 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 Chair.
- (4) The Chair is to preside at a meeting of a Committee of Council. If the Chair is unable or unwilling to preside, the Deputy Chair (if any) is to preside at the meeting, but if neither the Chair nor the Deputy Chair is able or willing to preside, the Acting Chair is to preside at the meeting.

(Clause 267 of the Regulation)

## **9.8 Absence from committee meetings**

- (1) A member (other than the Mayor) ceases to be a member of a committee if the member:
  - (a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or
  - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year (being 1 July to 30 June) without having given to the committee acceptable reasons for the member's absences.
- (2) Subclause (1) does not apply in respect of a committee that consists of all of the members of the council.

(Clause 268 of the Regulation)

## **9.9 Committees to keep minutes**

Each Committee of Council must ensure that full and accurate minutes of the proceedings of meetings are kept in accordance with Clause 10.2 of this Code.

## **9.10 Reports of Committees**

If recommendations are made in a Committee report, the decision of the Council may be made separately on each recommendation. The recommendations of a Committee are, so far as adopted by the Council, resolutions of the Council.

(Clause 269 of the Regulation)

# **PART 10 – MINUTES OF MEETINGS**

## **10.1 Minutes of Council Meetings**

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

In accordance with s.254 of the Regulation:

- (3) The General Manager must ensure that the following matters are recorded in the Council's Minutes:
  - (a) details of each motion moved at a Council meeting and of any amendments moved to it
  - (b) the names of the mover and seconder of the motion or amendment
  - (c) whether the motion or amendment is passed or lost

(Section 375 of the Act)

## **10.2 Minutes of Committee Meetings**

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

(Clause 266 of the Regulation)

## **10.3 Inspection on Minutes**

- (1) An inspection of the minutes of a Council or Committee is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspection of those minutes.

- (2) The General Manager must ensure that the minutes are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.
- (3) Upon request and in accordance with the Government Information (Public Access) Regulation 2009 Schedule 5, Council must supply minutes of any Council or Committee meeting excluding matters considered when part of the meeting was closed to the public, in which case the recommendation and resolution may be disclosed.

(Clause 272 of the Regulation)

#### **10.4 Confirmation of the Minutes**

- (1) A motion or discussion in respect of the Minutes shall not be in order except as to their accuracy as a record of proceedings.
- (2) Any minute confirmed but subsequently found to be incorrect shall not be altered or erased but shall be the subject of a report to and resolution of a subsequent meeting.

#### **10.5 Recording of voting on planning matters**

In accordance with Section 375A of the Act:

- (1) In this section, planning decision means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
  - (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
  - (b) not including the making of an order under Division 2A of Part 6 of that Act.
- (2) The General Manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, 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.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) 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, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

#### **10.6 Matters not to be recorded in minutes**

It shall not be necessary to record in the Minutes any of the following:-

- Motions or amendments not seconded;
- Councillors leaving and returning to the meeting except to record they were not present when a vote was taken;
- Motions or amendments withdrawn prior to any vote being taken;
- Motions for site meetings which are not adopted at the commencement of the meeting;

- Points of personal explanation or opinions;
- General Discussion;
- Points of order not proceeded with.

## **PART 11 – WORKSHOPS**

### **11.1 Councillor workshops**

- (1) Council may hold a workshop (also called a briefing session) from time to time. Workshops are informal gatherings and can provide useful background information to Councillors on issues.
- (2) Workshops should not be used for detailed or advanced discussions where agreement is reached and/or a (de-facto) decision is made. Any detailed discussion or exchange of views on an issue, and any policy decision from the options, should be left to the open forum of a formal Council or Committee meeting. Workshops are merely a means which enable Councillors to bring an informed mind to the appropriate decision-making forum.
- (3) Where workshops are held in relation to development application or business enterprise, Council needs to be mindful of its obligations and responsibilities under the Model Code of Conduct, and community perceptions in terms of unfair advantage and transparency of process.

### **11.2 Attendance**

A workshop may involve Councillors, Council employees and invited participants. A workshop is not generally open to the public.

## **PART 12 – SEAL**

### **12.1 Keeping the seal**

The General Manager shall have the custody of the Common Seal. The Common Seal and the press, to which the same is attached except when such seal and press are in use, shall be kept locked or shall be otherwise secured.

### **12.2 Affixing the seal**

- (1) The Seal of the Council may be affixed to a document only in the presence of:
  - (a). The Mayor and the General Manager, or
  - (b). At least one Councillor (other than the Mayor) and the General Manager or,
  - (c). The Mayor and at least one other Councillor, or
  - (d). At least 2 Councillors other than the Mayor.
- (2) The affixing of the Council Seal has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2) attest by their signatures that the seal was affixed in their presence.

### **12.3 Documents to be sealed**

The seal of the Council must not be affixed to a document unless the document relates to the business of Council and Council has resolved (by resolution specifically referring to the document) that the seal be so affixed. A document in the nature of a reference or certificate of service for an employee of the Council does not relate to the business of Council.

## **PART 13 - SUSPENDED COUNCILLOR(S)**

In accordance with Chapter 14 of the Act:

- (1) Section 440K authorises the Director General to suspend a councillor for up to 1 month for misbehaviour.
- (2) Section 482A authorises, by way of alternative to section 440K, the Local Government Pecuniary Interest and Disciplinary Tribunal to suspend a councillor for up to 6 months for misbehaviour;
- (3) Section 482 authorises the Local Government Pecuniary Interest and Disciplinary Tribunal to suspend a councillor for up to 6 months where it finds a complaint against a councillor proved.

## **PART 14 – MISCELLANEOUS**

### **14.1 Principles not covered by this Code**

Where at a meeting of Council or Committee, matters arise not covered by this Code, the meeting shall determine the principle to be followed provided such is not inconsistent with the principles of good government and the common good.

### **14.2 Variation to meeting procedures**

- (1) Practices and procedures outlined in this Code may be suspended in part or in whole in order to deal with a particular matter or item of business.
- (2) Procedures shall be suspended by the Council carrying a resolution to “*suspend standing orders*” (*procedures*) to deal with a particular matter following which standing orders (*meeting procedure*) shall resume. Such shall be recorded in the Minutes of the meeting.

### **14.3 Procedural matters not covered by this Code**

When a circumstance arises at a meeting the procedure for dealing with it is not covered by this Code, the Chair may rule on the procedure to be followed for the Council may determine it by resolution.

### **14.4 Departure from Code**

A decision of the Council shall not be invalid merely because it was made in a manner that departed from this Code.





# **FORBES SHIRE COUNCIL PUBLIC FORUM**

<b>MEETING DATE</b>	___ / ___ / ____
<b>NAME</b> (please print)	
<b>GROUP REPRESENTING</b> (if any)	
<b>SUBJECT</b>	
<b>PAGE N°</b>	
<b>CLAUSE N°</b>	
<b>SIGNED</b>	
<b>ADDRESS</b>	
<b>TELEPHONE N°</b>	

**NOTE:** *Questions must be handed to the General Manager prior to the meeting.*