

Code of Meeting Practice



CITY OF RYDE

September 2009

Cross references between the Act or Regulation and this Code

Section in Act	Paragraph(s) in Code	Clause in Regulation	Paragraph(s) Code
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PART 1 - PRELIMINARY

1.1 Citation

- 1.1.1 This Code may be cited as the City of Ryde Code of Meeting Practice.

1.2 Definitions

- 1.2.1 In this Code:

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

chairperson,

(a) in relation to a meeting of the council - means the person presiding at the meeting as provided by section 369 of the Act; and

(b) in relation to a meeting of a committee - means the person presiding at the meeting as provided by clause 267 of the Regulation;

committee means a committee established under clause 260 of the Regulation or the council when it has resolved itself into a committee of the whole;

council means the Council of the City of Ryde;

councillor means a Councillor of the City of Ryde and includes the Mayor;

deputy mayor means the Deputy Mayor of the City of Ryde;

Note: Under section 231 (3) of the Act the Deputy Mayor may exercise any function of the Mayor at the request of the Mayor or if the Mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of Mayor.

employee means an employee of the City of Ryde and includes the General Manager;

general manager means the General Manager of the City of Ryde or, in the absence of that person, the employee designated to act for the General Manager of the City of Ryde;

mayor means the Mayor of the City of Ryde;

record means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a councillor or an employee and, in particular, includes the minutes of meetings of the council or of a committee;

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

(a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;

(b) the spouse or de facto partner of the person or of a person referred to in paragraph (a);

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

the Regulation means the Local Government (General) Regulation 2005;

this Code means the City of Ryde Code of Meeting Practice.

1.2.2 Except as otherwise provided, expressions used in this Code which are defined in the dictionary at the end of the Act have the meanings set out in the dictionary.

1.3 Act and Regulation

1.3.1 This Code is made pursuant to section 360(2) of the Act.

1.3.2 Pursuant to section 360(3) of the Act, the council and a committee of which all members are councillors must conduct its meetings in accordance with this Code.

1.3.3 This Code incorporates relevant provisions of the Act and the Regulation. **Words appearing in *italics* are a direct quote from the Act or the Regulation.**

1.3.4 In the event of any inconsistency between this Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.

1.4 Notes and Annexures

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

PART 2 - CONVENING OF, AND ATTENDANCE AT, COUNCIL MEETINGS

2.1 Frequency of meetings of the Council

2.1.1 Section 365 of the Act:

The council is required to meet at least 10 times each year, each time in a different month.

- 2.1.2 Ordinary council meetings shall be held as set out below commencing at 7.30pm in the Council Chambers, Civic Centre, Devlin Street, Ryde, unless the council by resolution determines otherwise or an extraordinary or special meeting is called:
- on the fourth Tuesday of January, if considered necessary by the Mayor and General Manager
 - on the second and fourth Tuesdays of the months February to November inclusive
 - on the second Tuesday of December.

2.2 Extraordinary or special meetings

2.2.1 Section 366 of the Act:

If the mayor receives a request in writing signed by at least 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.

- 2.2.2 The mayor or general manager may call an extraordinary or special meeting of the council on any matter or matters considered necessary.
- 2.2.3 The mayor, in consultation with the general manager, shall determine the time and place of an extraordinary or special meeting.
- 2.2.4 If the mayor refuses or delays to call an extraordinary or special meeting after receiving a request, signed by at least 2 councillors, those councillors may, in writing, request the general manager to call the meeting. The general manager shall call the meeting as soon as practicable.

2.3 Notice of meetings

2.3.1 Section 367 of the Act:

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

(2) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.

(3) A notice under this section and the agenda for, and the business papers relating to, the meeting may be given to a councillor in electronic form but only if all councillors have facilities to access the notice, agenda and the business papers in that form.

2.4 Quorum

2.4.1 Section 368 of the Act:

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

2.5 What happens when a quorum is not present

2.5.1 Clause 233 of the Regulation:

(1) A meeting of a council must be adjourned if a quorum is not present:

- (a) within half an hour after the time designated for the holding of the meeting; or*
- (b) at any time during the meeting.*

(2) In either case, the meeting must be adjourned to a time, date and place fixed:

- (a) by the chairperson; or*
- (b) in his or her absence - by the majority of the councillors present; or*
- (c) failing that, by the general manager.*

(3) The general manager must record in the council'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.

2.6 Presence at Council meetings

2.6.1 Clause 235 of the Regulation:

A councillor cannot participate in a meeting of a council unless personally present at the meeting.

2.6.2 The seating arrangements for a meeting shall be determined by the chairperson of the meeting.

2.6.3 Section 234(2) of the Act

For the purposes of subsection (1)(d) a councillor applying for a leave of absence from a meeting of a council does not need to make the application in person and the council may grant such leave in the absence of that councillor.

PART 3 - PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

3.1 Chairperson of Council meetings

3.1.1 Section 369 of the Act:

(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.

(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.

3.1.2 Clause 236 of the Regulation:

(1) If no chairperson is present at a meeting of a 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.

Note: Section 369 (2) of the Act provides for a councillor to be elected to chair a meeting of a council when the mayor and deputy mayor are absent.

(2) The election must be conducted:

(a) by the general manager or, in his or her absence, an employee of the council designated by the general manager to conduct the election: or

(b) if neither of them is present at the meeting or there is no general manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.

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

(4) For the purposes of subclause (3), the person conducting the election must:

(a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips; and

(b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.

(5) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

3.2 Chairperson to have precedence

3.2.1 Clause 237 of the Regulation

When the chairperson rises during a meeting of a council:

- (a) any councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat; and*
- (b) every councillor present must be silent to enable the chairperson to be heard without interruption.*

3.2.2 All remarks made by councillors, employees and others present at the meeting shall be made through the chairperson.

3.3 Chairperson's duty with respect to motions

3.3.1 Clause 238 of the Regulation:

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

3.4 Minutes

3.4.1 Section 375 of the Act:

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

3.4.2 Clause 254 of the Regulation

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*

Note: Section 375 (1) of the Act requires a council to ensure that full and accurate minutes are kept of the proceedings of a meeting of the council (other provisions of this Regulation and of the Act require particular matters to be recorded in a council's minutes) see 3.4.1

- 3.4.3 The correctness of the minutes of every preceding meeting, including any extraordinary or special meeting, not previously confirmed must be dealt with at a meeting of the council, in order that such minutes may be confirmed.
- 3.4.4 A motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.
- 3.4.5 Minutes may be confirmed at an extraordinary or special meeting of the Council.

3.5 Order of business

3.5.1 Clause 239 of the Regulation:

(1) At a meeting of a council (other than an extraordinary meeting), the general order of business is (except as provided by this Regulation) as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix the general order of business) as fixed by resolution of the council.

(2) The order of business fixed under subclause (1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.

(3) Despite clause 250, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.

Note: The current order of business at a council meeting is set out in Annexure A.

3.6 Agenda and Business Papers for Council meetings

3.6.1 Clause 240 of the Regulation:

- (1) The general manager must ensure that the agenda for a meeting of the council states:*
- (a) all matters to be dealt with arising out of the proceedings of former meetings of the council; and*
 - (b) if the mayor is the chairperson - any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting; and*
 - (c) subject to subclause (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.*
- (4) *The general manager must ensure that the details of any item of business to which section 9 (2A) of the Act applies are included in a business paper for the meeting concerned.*
- (5) *Nothing in this clause limits the powers of the chairperson under clause 243.*

3.6.2 Confidential items shall be printed on pink paper, or such other coloured paper as the general manager may from time to time determine, and where practicable, be listed at the end of the business paper. These confidential items will comprise the confidential business paper for the meeting.

3.6.3 Where a councillor is, or in the opinion of the general manager is likely to be, the subject of proceedings by or against the council, any legal advice, reports or correspondence dealing with those proceedings or likely proceedings shall, if the matter is a kind of business referred to in section 10A of the Act, be withheld from the business paper of that councillor and shall not be made available to that councillor by any person.

3.7 Giving notice of business

3.7.1 Clause 241 of the Regulation:

- (1) *A council must not transact business at a meeting of the council:*
 - (a) *unless a councillor has given notice of the business in writing within such time before the meeting as is fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by resolution of the council, and*
 - (b) *unless notice of the business has been sent to the councillors in accordance with section 367 of the Act.*

- (2) *Subclause (1) does not apply to the consideration of business at a meeting if the business:*
- (a) *is already before, or directly relates to a matter that is already before, the council; or*
 - (b) *is the election of a chairperson to preside at the meeting as provided by clause 236(1); or*
 - (c) *is a matter or topic put to the meeting by the chairperson in accordance with clause 243; or*
 - (d) *is a motion for the adoption of recommendations of a committee of the council.*
- (3) *Despite subclause (1), business may be transacted at a meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:*
- (a) *a motion is passed to have the business transacted at the meeting; and*
 - (b) *the business proposed to be brought forward is ruled by the chairperson to be of great urgency.*
- Such a motion can be moved without notice.*
- (4) *Despite clause 250, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.*

3.7.2 A notice of motion signed by a councillor may be dealt with only at an ordinary council meeting. In exceptional circumstances, a notice of motion may be dealt with at an ordinary committee of the whole meeting. The notice of motion must be provided to the general manager no later than 5.00 pm on the Thursday of the week prior to the council meeting.

3.7.3 No supporting notes may be provided on a business paper by councillors or staff with any notice of motion.

3.8 Business paper for extraordinary or special meetings

3.8.1 Clause 242 of the Regulation:

- (1) *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.*
- (2) *Despite subclause (1), business may be transacted at an extraordinary meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:*
- (a) *a motion is passed to have the business transacted at the meeting; and*
 - (b) *the business proposed to be brought forward is ruled by the chairperson to be of great urgency.*

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

(3) Despite clause 250, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.

3.9 Mayoral minutes

3.9.1 Clause 243 of the Regulation:

(1) If the mayor is the chairperson at a meeting of a council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the council or of which the council has official knowledge.

(2) Such a minute, when put to the 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 the minute without the motion being seconded.

(3) A recommendation made in a minute of the chairperson (being the mayor) or in a report made by a council employee is, so far as adopted by the council, a resolution of the council.

3.10 Report of a Departmental representative to be tabled at Council meeting

3.10.1 Clause 244 of the Regulation:

When a report of a Departmental representative has been presented to a meeting of a Council in accordance with section 433 of the Act, the council must ensure that the report:

- (a) is laid on the table at that meeting; and*
- (b) is subsequently available for the information of councillors and members of the public at all reasonable times.*

3.11 Notice of motion - absence of mover

3.11.1 Clause 245 of the Regulation:

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 chairperson may defer the motion until the next meeting of the council at which the motion can be considered.*

3.12 Motions to be seconded

3.12.1 Clause 246 of the Regulation:

A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clauses 243(2) and 250(5).

3.12.2 Despite paragraph 3.12.1 above, the mover of a motion may be allowed by the chairperson to speak to the motion very briefly before calling for the motion to be seconded in order to indicate the general nature of the motion.

3.12.3 The seconder of a motion or of an amendment may reserve the right to speak later in the debate.

3.12.4 It is permissible to debate the motion and an amendment concurrently.

3.13 How subsequent amendments may be moved

3.13.1 Clause 247 of the Regulation:

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

3.13.2 It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.

3.14 Motions of dissent

3.14.1 Clause 248 of the Regulation:

- (1) A councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.*
- (2) If a motion of dissent is carried, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.*
- (3) Despite clause 250, 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.*

3.15 Petitions

3.15.1 The chairperson may permit a councillor to move the suspension of standing orders to present a petition to the council meeting.

3.15.2 The chairperson shall not permit discussion on the petition.

3.16 Questions may be put to councillors and employees

3.16.1 Clause 249 of the Regulation:

- (1) A councillor:
 - (a) may, through the chairperson, put a question to another councillor; and*
 - (b) may, through the general manager, put a question to a council employee.**
- (2) However, a councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.*
- (3) The councillor must put every such question directly, succinctly, and without argument.*
- (4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a councillor or employee under this clause.*

3.16.2 Nothing in this paragraph prevents questions being asked generally, with the leave of the chairperson, relevant to any matter under discussion at a meeting.

3.16.3 Questions with notice by councillors on council projects and/or policies shall be dealt with in accordance with paragraph 3.26 of this Code.

3.17 Mode of address

3.17.1 Councillors, employees and others present shall at all times during meetings address councillors and employees by their official designations.

3.17.2 Councillors, employees and others present, with the exception of the chairperson, or any person prevented by physical infirmity, shall stand when speaking.

3.17.3 The requirement to stand when speaking shall not include any part of the meeting where the council is in Committee of the Whole.

3.18 Limitation as to number of speeches

3.18.1 Clause 250 of the Regulation

(1) A councillor who, during a debate at a meeting of a council, moves an original motion has the right of general reply to all observations that are made by another councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.

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

(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 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 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 chairperson 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 chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause (1).*
- (7) *If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed.*

3.19 Motions put without debate

- 3.19.1 Provided there is no objection from any councillor present, any motion or recommendation before the council may be put to the vote without discussion or debate.

3.20 Voting at Council meetings

3.20.1 Section 370 of the Act

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

3.20.2 Clause 251 of the Regulation

- (1) *A councillor who is present at a meeting of a council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.*
- (2) *If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.*

- (3) *The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 councillors rise and demand a division.*
- (4) *When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the council's minutes.*
- (5) *Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.*

Note: Part II of this regulation provides that a council is to resolve whether an election by the councillors for mayor or deputy mayor is to be by preferential ballot, ordinary ballot or open voting (clause 394 and clause 3 of Schedule 7). Clause 3 of Schedule 7 also makes it clear that “ballot” has its normal meaning of secret ballot.

- 3.20.3 All voting at council and committee meetings shall be recorded in the minutes of the meetings with all names of Councillors who voted for or against a motion being recorded or otherwise the words “unanimous” being recorded when all voting is the same.

3.21 Decisions of the Council

3.21.1 Section 371 of the Act

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.

3.22 Resolutions passed at closed meetings

3.22.1 Clause 253 of the Regulation

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.

3.23 Motions of recommittal

- 3.23.1 If, prior to the completion of a meeting, a councillor considers that a decision made earlier is lacking in judgement or precision or any relevant consideration has been overlooked, the councillor may at

any time seek leave from the chairperson to move a motion for recommittal of the item.

- 3.23.2 If the motion for recommittal is carried, the item shall be reconsidered.

3.24 Rescinding or altering resolutions

3.24.1 Section 372 of the Act

- (1) A resolution passed by a council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with regulations made under section 360 and, if applicable, the council's code of meeting practice.*
- (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) If a motion has been negatived by a council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with council's code of meeting practice.*
- (4) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negatived by the council, must be signed by at least 3 councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negatived, as the case may be.*
- (5) If a motion to alter or rescind a resolution has been negatived, or if a motion which has the same effect as a previously negatived motion, is negatived, no similar motion may be brought forward within 3 months. This subclause may not be evaded by substituting a motion differently worded, but in principle the same.*
- (6) A motion to which this section applies may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.*
- (7) The provisions of this section concerning negatived motions do not apply to motions of adjournment.*

3.24.2 A notice of motion to rescind a resolution should be given to the General Manager before the end of the meeting at which the resolution is carried. However, if a notice of motion to rescind a resolution is given at any time after the meeting at which the resolution is carried, no further action to carry the resolution into effect may be taken after receipt of the notice (so far as is practicable and providing, in the opinion of the General Manager, that such action would not adversely affect the day-to-day operation of the Council) until the motion of rescission has been dealt with, which may occur at an ordinary or extraordinary meeting of the council.

3.24.3 A notice of rescission on a resolution may be dealt with at the meeting at which it is lodged after it has been considered at that meeting in Committee of the Whole and a recommendation has been made to Council in conformity with clause 241(2)(d) of the Regulation (see paragraph 3.7.1).

3.25 End of meetings and motions of adjournment

3.25.1 Council meetings shall conclude by 11.00 pm or such later time as council may by resolution decide on each occasion.

3.25.2 A motion to adjourn a meeting of the council may not be moved before 11.00pm.

3.25.3 Debate shall not be permitted on any motion for adjournment of a meeting.

3.25.4 If a motion for adjournment is negatived, the business of the meeting shall proceed, and it shall not be in order for any councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being negatived.

3.25.5 A motion for adjournment may specify the time, date and place of the adjourned meeting. However, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the chairperson, in consultation with the general manager, shall make a determination with respect to whichever of these has not been specified.

3.26 Questions with notice

3.26.1 At each ordinary meeting of the council, councillors may ask questions that deal with matters of general interest regarding council projects and/or policies either pending or under consideration.

- 3.26.2 Such questions must be submitted in writing signed by the councillor to the general manager by 10.00am on the day preceding the council meeting.
- 3.26.3 The chairperson may not permit a question to be asked if the question does not clearly relate to a council project or policy as specified in paragraph 3.26.1.
- 3.26.4 It is not permissible for a supplementary question to be asked by a councillor unless due notice of the question has been given in accordance with paragraph 3.26.2 nor is it permissible for Council to debate any question or answer.
- 3.26.5 Each Councillor may ask a maximum of five (5) questions at a Council Meeting.

PART 4 - KEEPING ORDER AT MEETINGS

4.1 Questions of order

4.1.1 Clause 255 of the Regulation

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

4.1.2 In accordance with clause 270 of the Regulation, the provisions of this clause apply to meetings of committees of the council in the same way as they apply to meetings of the council.

4.2 Acts of disorder by Councillors

4.2.1 Clause 256 of the Regulation

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

- (2) *The chairperson may require a councillor:*
- (a) *to apologise without reservation for an act of disorder referred to in subclause (1) (a) or (b); or*
 - (b) *to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation; or*
 - (c) *to retract and apologise without reservation for an act of disorder referred to in subclause (1) (d) or (e).*
- (3) *A councillor may, as provided by section 10(2)(a) or (b) of the Act be expelled from a meeting of a council for having failed to comply with a requirement under subclause (2). The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned*

4.2.2 In accordance with clause 270 of the Regulation, the provisions of this clause apply to meetings of committees of the council in the same way as they apply to meetings of the council.

4.3 Dealing with disorder

4.3.1 Clause 257 of the Regulation

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

4.3.2 For the purposes of this clause, no authority to expel a person is granted to the chairperson and it shall be necessary for a meeting to decide that a person is to be expelled.

4.3.3 No person shall enter a meeting if, in the opinion of the chairperson, the person is dressed to a standard that is inappropriate for the meeting.

- 4.3.4 No person shall display any sign at a meeting which, in the opinion of the chairperson, appears to attempt to influence any decision to be made at any meeting or makes comment on any Council matter. Such action shall be considered to be conduct that is inconsistent with maintaining order at the meeting. In this subparagraph, "sign" shall include any item of clothing that has on it or attached to it any words that appear, in the opinion of the chairperson, to attempt to influence any decision or make comment on any Council matter.
- 4.3.5 In accordance with clause 270 of the Regulation, the provisions of this clause apply to meetings of committees of the council in the same way as they apply to meetings of the council.

4.4 Power to remove persons from meeting after expulsion resolution

4.4.1 Clause 258 of the Regulation

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

- (a) immediately after the council has passed a resolution expelling the councillor or member from the meeting; or*
- (b) where the council has authorised the person presiding at the meeting to exercise the power of expulsion, immediately after being directed by the person presiding to leave the meeting, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member from that place and, if necessary, restrain the councillor or member from re-entering that place.*

- 4.4.2 For the purposes of this clause, the chairperson may authorise any person or persons to remove a person who has been expelled by a decision of the council.
- 4.4.3 In accordance with clause 270 of the Regulation, the provisions of this clause apply to meetings of committees of the council in the same way as they apply to meetings of the council.

4.5 Expulsion from committee meetings

4.5.1 Clause 271 of the Regulation

- (1) If a meeting or part of a meeting of a committee of a council is closed to the public in accordance with section 10A of the Act any person who is not a councillor may be expelled from the meeting as provided by section 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 the council, committee or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.*

4.5.2 For the purposes of this clause, the chairperson may authorise any person or persons to remove a person who has been expelled by a decision of the committee.

4.6 Misbehaviour

4.6.1 Section 440F of the Act

(1) *In this Division:*

misbehaviour of a councillor means any of the following:

- (a) *a contravention by the councillor of this 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),*
- (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 of Part 2.

Note: *A contravention of the disclosure requirements of Part 2 is dealt with under other provisions of this Chapter*

(2) *A reference in this Division to **misbehaviour** or **an incident of misbehaviour** includes a reference to misbehaviour that consists of an omission or failure to do something.*

4.6.2 Section 440G of the Act

(1) *A council may by resolution at a meeting formally censure a councillor for misbehaviour.*

(2) *A formal censure resolution may not be passed except by a motion to that effect of which notice has been duly given in accordance with regulations made under section 360 and, if applicable, the council's code of meeting practice.*

- (3) A council may pass a formal censure resolution only if it is satisfied that the councillor has misbehaved on one or more occasions.*
- (4) The council must specify in the formal censure resolution the grounds on which it is satisfied that the councillor should be censured.*
- (5) A motion for a formal censure resolution may, without limitation, 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: The process for the suspension of a councillor for misbehaviour is setout in sections 440H to 440Q of the Act.

PART 5 - COUNCIL COMMITTEES

5.1 Committee of the Whole

5.1.1 Section 373 of the Act

A council may resolve itself into a committee to consider any matter before the council.

5.1.2 Clause 259 of the Regulation

(1) All the provisions of this Regulation relating to meetings of a 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.

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

(3) 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.

Note: In accordance with paragraph 3.17.3 there is no requirement to stand when speaking at a Committee of the Whole meeting.

5.1.3 The committee of the whole has delegated authority to determine all matters referred to the committee.

Note: The charter, functions, powers and meeting times of the committee of the whole is set out in Annexure B.

5.2 Establishment of committees

5.2.1 Clause 260 of the Regulation

(1) A council may, by resolution, establish such committees as it considers necessary.

(2) A committee is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.

- (3) *The quorum for a meeting of a committee is to be:*
- (a) *such number of members as the council decides; or*
 - (b) *if the council has not decided a number - a majority of the members of the committee.*

5.2.2 Unless council decides otherwise, a quorum for a committee comprising less than the full council shall be three (3) and for a committee comprising the full council shall be seven (7).

5.3 Charters, functions and powers of committees

5.3.1 Clause 261 of the Regulation

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

Note: The charter, functions, powers and meeting times of current committees are set out in Annexure B.

5.3.2 Each committee set out in Annexure B (other than the committee of the whole) may operate with its delegated powers subject to the Act, the Regulation and the following restrictions:

Requirement before delegation can be used	Exception allowing delegation to be used
1 The report and recommendation is on the Agenda for councillor and community notice.	<ul style="list-style-type: none"> • No exceptions.
2 No dissenting votes occurring	<ul style="list-style-type: none"> • Where every dissenting Councillor present is agreeable to the decision proceeding with their names being recorded against the decision.
3 No substantive changes are made to the published recommendation.	<ul style="list-style-type: none"> • Where any inconsequential changes are made such as for clarification purposes, to correct typographical, grammatical or similar errors, or to extend thanks/congratulations.

Requirement before delegation can be used	Exception allowing delegation to be used
4 No Councillor has requested the General Manager in writing by the commencement of the meeting to refer the matter to the next Committee of the Whole or Council Meeting.	<ul style="list-style-type: none"> • No exceptions

5.3.3 If in the opinion of a Councillor another Councillor is repeatedly and unreasonably taking action that frustrates the use of delegated powers by any committee, the Councillor may have this matter considered by the Council through the submission of a notice of motion calling upon the alleged offending Councillor to justify his or her action. The Council may take such action as is considered appropriate in the circumstances.

5.4 Notice of committee meetings

5.4.1 Clause 262 of the Regulation

(1) *The general manager of a council must send to each councillor, at least 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 3 days may be given of a committee meeting called in an emergency.*

5.4.2 Urgent late items may be submitted to a committee meeting only by the general manager or with the concurrence of the general manager and the chairperson shall accept any such late items and have them dealt with by the committee.

5.4.3 The provisions of paragraph 3.6 of this Code, except for Clause 240(1) of the Regulation in paragraph 3.6.1, apply to the business papers of committee meetings in the same manner as they apply to the business papers of meetings of the council.

5.5 Non-members entitled to attend committee meetings

5.5.1 Clause 263 of the Regulation

(1) *A councillor who is not a member of a committee of a 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; or*
 - (b) *to move or second a motion at the meeting, or*
 - (c) *to vote at the meeting.*

5.6 Procedure in committees

5.6.1 Clause 265 of the Regulation

- (1) *Subject to subclause (3), each committee of a council may regulate its own procedure.*
- (2) *Without limiting subclause (1), a committee of a 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)*

5.6.2 In the absence of any decision in clause 265(2) of the Regulation, or if the council so resolves, the chairperson shall not have a casting vote except in the case of the committee of the whole.

5.7 Chairperson and deputy chairperson of committees

5.7.1 Clause 267 of the Regulation

- (1) *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.*
- (2) *A council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.*
- (3) *If neither the chairperson nor the deputy chairperson of a committee of a council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.*

- (4) *The chairperson is to preside at a meeting of a committee of a 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.*

5.8 Absence from committee meetings

5.8.1 Clause 268 of the Regulation

- (1) *A member ceases to be a member of a committee if the member (other than the mayor):*
- (a) *has been absent from 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.*
- (2) *Subclause (1) 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 the following 30 June.

5.9 Committee minutes

5.9.1 Clause 266 of the Regulation

- (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.*

5.10 Reports of committees

5.10.1 Clause 269 of the Regulation

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

PART 6 - CONFLICTS OF INTEREST

6.1 Pecuniary Interest

6.1.1 Section 442 of the Act

- (1) For the purposes of this Chapter, a **pecuniary interest** is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.*
- (2) A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section 448.*

6.2 Non-Pecuniary Interest

- 6.2.1 A non-pecuniary interest is any private or personal interest that does not pertain or relate to money (for example, kinship, friendship, membership of any association, society or trade union or involvement or interest in any trade union).

6.3 Persons who have a pecuniary interest

6.3.1 Section 443 of the Act

- (1) For the purposes of this Chapter, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
 - (a) the person, or*
 - (b) the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, or*
 - (c) a company or other body of which the person, or a nominee, partner or employer of the person, is a member.**
- (2) Repealed 2005*
- (3) However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (1) (b) or (c):
 - (a) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or*
 - (b) just because the person is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or*
 - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.**

- 6.3.2 It is the responsibility of each individual to determine whether or not he or she has a pecuniary interest and if necessary to obtain legal advice. It is not the role of the chairperson or the general manager to rule on any question of pecuniary interest.

6.4 Interests that do not have to be disclosed

6.4.1 Section 448 of the Act

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

- (a) an interest as an elector,*
- (b) an interest as a ratepayer or a person liable to pay a charge,*
- (c) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this Part,*
- (d) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part,*
- (e) an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)*
- (f) an interest of a member of a council committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee*
- (g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible uses of:
 - (i) land in which the person or another person with whom the person is associated as provided in section 443 has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option, or contract, or otherwise), or*
 - (ii) land adjoining, or adjacent to, or in proximity to land referred to in subparagraph (i) if the person or the other person with whom the person is associated would by reason of the proprietary interest have a pecuniary interest in the proposal,**

- (h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company,*
- (i) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership,*
- (j) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:*
 - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation,*
 - (ii) security for damage to footpaths or roads,*
 - (iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract,*
- (k) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor),*
- (l) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252,*
- (m) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor,*
- (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,*
- (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or member of a council committee,*
- (p) an interest arising from appointment of a councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.*

Note: Section 458 of the Act provides that the Minister may in certain circumstances allow a councillor or a member of a committee who has a pecuniary interest to take part in the consideration or discussion of a matter or vote on a 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.

6.5 Disclosure and participation in meetings

6.5.1 Section 451 of the Act

- (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.*

Note: A general notice of disclosure can be made in some circumstances pursuant to section 454 of the Act which will fulfil the requirement of this subclause.

- (2) *The councillor or member must not be present at, or in sight of, the meeting of the council or committee:*
- (a) *at any time during which the matter is being considered or discussed by the council or committee, or*
 - (b) *at any time during which the council or committee is voting on any question in relation to the matter.*
- (3) *For the removal of doubt, a councillor or a member of a council committee is not prevented by this 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.*

Note: *The code of conduct adopted by a council for the purposes of section 440 may also impose obligations on councillors, members of staff of councils and delegates of councils.*

6.5.2 Section 457 of the Act

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.

6.5.3 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 should disclose the interest to the meeting as soon as practicable.

6.6 **Disclosure by adviser**

6.6.1 Section 456 of the Act

(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.

6.6.2 Section 457 of the Act

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.

6.7 **Disclosures to be recorded**

6.7.1 Section 453 of the Act

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

PART 7 - OPEN MEETINGS

7.1 Public notice of meetings

7.1.1 Section 9 of the Act

- (1) A council must give notice to the public of the times and places of its meetings and meetings of those of its committees of which all the members are councillors.*
- (2) A council and each such committee must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting.*
- (2A) In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public:
 - (a) the agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item), and*
 - (b) the requirements of subsection (2) with respect to the availability of business papers do not apply to the business papers for that item of business.**
- (3) The copies are to be available to the public as nearly as possible to the time they are available to councillors.*
- (4) The copies are to be available free of charge.*
- (5) A notice given under this section or a copy of an agenda or of a business paper made available under this section may in addition be given or made available in electronic form.*

7.1.2 Clause 232 of the Regulation

- (1) This clause prescribes the manner in which the requirements outlined in section 9(1) of the Act are to be complied with.*
- (2) A notice of a meeting of a council or of a committee must be published in a newspaper circulating in the area before the meeting takes place.*
- (3) The notice must specify the time and place of the meeting.*
- (4) Notice of more than one meeting may be given in the same notice.*
- (5) This clause does not apply to an extraordinary meeting of a council or committee.*

- 7.1.3 For the purposes of this paragraph, copies of business papers are available at Council's libraries from the Saturday morning prior to the meeting and at the Civic Centre from the Monday (Tuesdays on public holiday weekends) prior to the meeting. Access to the business papers may be available from Friday evenings through Council's web site.

7.2 Attendance at meetings of the Council and committees

7.2.1 Section 10 of the Act

- (1) *Except as provided by this Part:*
- (a) *everyone is entitled to attend a meeting of the council and those of its committees of which all the members are councillors, and*
 - (b) *a council must ensure that all meetings of the council and of such committees are open to the public.*
- (2) *However, a person (whether a councillor or another person) is not entitled to be present at a meeting of the council or of such committee if expelled from the meeting:*
- (a) *by a resolution of the meeting; or*
 - (b) *by the person presiding at the meeting, if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.*
- (3) *A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.*

7.3 Parts of a meeting closed to the public

7.3.1 Section 10A of the Act

- (1) *A council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises:*
- (a) *the discussion of any of the matters listed in subclause (2),*
or
 - (b) *the receipt or discussion of any of the information so listed.*
- (2) *The matters and information are the following:*
- (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.*

(3) *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.*

(4) *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.*

7.3.2 Clause 252 of the Regulation

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

(2) *That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.*

7.3.3 Clause 264 of the Regulation

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

(2) That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.

7.3.4 Members of the public who are permitted to make representations in accordance with section 10A(4) of the Act, may make such representations to the Council or Committee Meeting in writing or verbally. Each person wishing to make verbal representations may speak for up to one (1) minute.

7.4 Further limitations to closure of parts of meetings

7.4.1 Section 10B of the Act

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

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

- (5) *In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must have regard to any relevant guidelines issued by the Director-General.*

Note: The provisions of sections 10A and 10B are summarised on the next page.

Note: May go into closed committee for receipt or discussion of any of the following matters, **for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security:**

Matter - Section 10A	Restrictions - Section 10B
(2)(a) personnel matters concerning particular individuals	
(2)(b) personal hardship of any resident or ratepayer	
(2)(c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest
(2)(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 council, or (iii) reveal a trade secret	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest (except for trade secrets)
(2)(e) information that would, if disclosed, prejudice the maintenance of law	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest
(2)(f) matters affecting the security of the council, councillors, council staff or council property	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest
(2)(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest (2) advice must concern legal matters that: (a) are substantial issues relating to a matter in which the council is involved (b) are clearly identified in the advice, and (c) are fully discussed in that advice
(2)(h) information concerning the nature and location of a place or an item of Aboriginal significance on community land	(1)(b) must be satisfied that discussion in open meeting would, on balance, be contrary to the public interest
(3) so much of its meeting as comprises a motion to close another part of the meeting	(3) must not include any consideration of the matter or information to be discussed

7.5 Notice of closure not required in urgent cases

7.5.1 Section 10C of the Act

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

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

7.6 Specification of grounds for closing part of a meeting

7.6.1 Section 10D of the Act

- (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*
 - (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.**

7.7 Public access to correspondence and reports

7.7.1 Section 11 of the Act

- (1) A council and a committee of which all the members are councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.*

(2) This section does not apply if the correspondence or reports:
(a) relate to a matter that was received or discussed; or
(b) were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.

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

7.8 Public participation at meetings

7.8.1 Any person may address a council meeting strictly in accordance with any procedures that the Council may determine.

Note: The current procedures are set out in Annexure C.

7.8.2 Any person may address a committee meeting strictly in accordance with any procedures or guidelines that the council may determine, or in the absence of such procedures or guidelines, in accordance with the directions of the chairperson of the committee meeting.

Note: The current guidelines are set out in Annexure D.

7.8.3 In the event that any item in the Planning and Environment Committee or the Works and Community Committee involves inspections and/or interviews and the committee is unable to use its delegation, the committee shall undertake the inspection and/or interview as arranged and no further inspections or interviews shall be conducted in respect of that item at any subsequent Committee of the Whole meeting without a specific resolution to that effect being first carried by the Committee of the Whole or the Council.

PART 8 - MISCELLANEOUS

8.1 Disclosure and misuse of information

8.1.1 Section 664 of the Act

- (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 purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or*
 - (d) *in accordance with a requirement imposed under the Ombudsman Act 1974 or the Freedom of Information Act 1989; or*
 - (e) *with other lawful excuse.*
- (1A) *In particular, if a meeting or part of a meeting of a council or a committee of a council is closed to the public in accordance with section 10A(1), a person must not, without the authority of the council or the committee, disclose, (otherwise than to the council or a councillor of the council), information with respect to the discussion at, or the business of, the meeting.*
- (1B) *Subsection (1A) 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 (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.*
- (2) *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.*

- (3) *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.
Maximum penalty: 50 penalty units.

8.1.2 Clause 412 of the Regulation

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.

- 8.1.3 Councillors and staff must comply with Council's adopted Confidential Information Protocol and any other relevant protocols and policies.

8.2 **Inspection of minutes**

8.2.1 Clause 272 of the Regulation

- (1) *An inspection of the minutes of a council or committee of a council is to be carried out under the supervision of the general manager or an employee of the council designated by the general manager to supervise inspections of those minutes.*
- (2) *The general manager must ensure that the minutes of the council and any minutes of a committee of the council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.*

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

8.3 **Access to information and records by councillors**

- 8.3.1 The general manager shall produce and distribute a Councillors' Information Bulletin, generally on a weekly basis, to provide information to councillors on projects and local government matters of interest to Councillors.

- 8.3.2 Councillors shall have access to council documents in accordance with sections 12 and 12A of the Act, however, nothing in this code derogates from the common law right of councillors to generally inspect any record of the council relating to any business before the council, except where the councillor requesting inspection has, in the opinion of the general manager, a pecuniary interest in the matter.

8.4 Tape recording of meetings

8.4.1 Clause 273 of the Regulation

- (1) A person may use a tape recorder to record the proceedings of a meeting of the council or a committee of a council only with the authority of the council or committee.*
- (2) A person may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of a council or a committee 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 the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.*
- (4) In this clause, **tape recorder** includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.*

8.5 Certain circumstances do not invalidate Council decisions

8.5.1 Section 374 of the Act

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

- (a) a vacancy in a civic office; or*
- (b) a failure to give notice of the meeting to any councillor or committee member; or*
- (c) any defect in the election or appointment of a councillor or committee member; or*

- (d) a failure of a councillor or a committee member to disclose a pecuniary interest or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or a committee meeting in accordance with section 451; or*
- (e) a failure to comply with the code of meeting practice.*

8.6 Attendance of General Manager at meetings

8.6.1 Section 376 of the Act

- (1) The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all the members are councillors.*
- (2) The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.*
- (3) However, the general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of the employment of the general manager.*

8.7 Mobile telephones

- (1) No person shall answer or otherwise use a mobile telephone during a council or committee meeting.
- (2) All mobile telephones shall be switched off during every council and committee meeting.

8.8 Other matters

A ruling or interpretation not covered by the Act, the Regulation or this Code shall be determined by resolution of the council.

8.9 Amendment of Code

This code may be amended in accordance with the provisions of Division 1 of Part 2 of Chapter 12 of the Act. However, any amendments to the Act or the Regulation will immediately apply and override this Code to the extent of any inconsistency. In accordance with Circulars no. 94/53 and 95/81 issued by the Department of Local Government, such amendments will be inserted into this Code without the need for further public notification.

ANNEXURE A

Order of business for Council meetings

1. Acknowledgement of Country
2. Prayer.
3. Apologies.
4. Confirmation of minutes of previous meetings.
5. Disclosures of interests.
6. Public participation on items listed on the agenda.
7. Mayoral minutes.
8. Reports from committees.
9. Report from General Manager.
10. Précis of correspondence.
11. Notices of motion.
12. Notice of rescission (if required)
13. Urgent Items as submitted by the Mayor
14. Questions by councillors as per policy.
15. Public participation on items not listed on the agenda.
16. Consideration of any business in closed session.
17. National anthem.

ANNEXURE B

Meeting Times, Charters, Functions and Powers of Committees

COMMITTEE OF THE WHOLE

Normal Meeting Time

3rd Tuesday of January (if considered necessary by the Mayor and General Manager)

1st and/or 3rd Tuesdays of the months February to November

1st Tuesday of December;

meetings to commence at 7.30pm and only to be held if considered necessary by the Mayor and General Manager.

Charter

To address issues relating to the management of Council's financial, human and physical resources through the adoption and monitoring of strategies, policies, budgets and procedures that will enable Council to achieve its visions for the City of Ryde.

To deal with any other matters referred to the Committee by a Councillor or the General Manager and adopt or otherwise determine such matters.

Functions and Powers

Finance

Consider funding strategies and revenue raising opportunities and adopt funding strategies for long and short term budgets that will ensure Council's financial security.

Budget

Monitor and review the adopted Management Plan.

Organisations Issues

Review organisation and management structures and issues and adopt policies.

Initiatives

Examine, review and adopt business plans and strategies for the funding of major capital purchases, entrepreneurial activities and development proposals.

Major Issues

Address and determine any other issues of a significant nature impacting on the City of Ryde or the Council.

Referrals

Deal with, adopt or otherwise determine matters referred from other Committees at the instigation of a Councillor.

PLANNING AND ENVIRONMENT COMMITTEE

Normal Meeting Time

3rd Tuesday of January (if considered necessary by the Mayor and General Manager)

1st and 3rd Tuesdays of the months February to November inclusive

1st Tuesday of December;

meetings to commence at 4.30pm.

Charter

To adopt and monitor in accordance with established priorities and budgets the policies, plans and procedures for promoting the health of citizens and the creation of an attractive, harmonious living environment, review the execution of such policies and plans and determine local development and rezoning applications.

Functions and Powers

Environmental Planning

Approve and monitor policies, codes and plans including statutory controls, to regulate and control the subdivision, development and use of land, the demolition of buildings, the alteration of buildings and the erection of buildings and structures.

Development Control

Consider major development projects and local development applications not otherwise determined and determine the applications. Approve the issue of notices and orders.

Environment Protection

Approve and monitor policies and programs for protecting the environment and enforcing regulations and controls for public health and convenience, environmental protection, the use of land and the parking of motor vehicles.

Court Action

Approve the institution of legal proceedings, review the progress of matters before the Courts and assess the implications of decisions from the Court.

Health Services

Address policy issues relevant to the physical well being of people and approve and monitor the implementation of health programs to ensure high standards of health within the community.

WORKS AND COMMUNITY COMMITTEE

Normal Meeting Time

3rd Tuesday of January (if considered necessary by the Mayor and General Manager)
1st and 3rd Tuesdays of the months February to November inclusive
1st Tuesday of December;
meetings to commence at 4.30pm.

Charter

To adopt and monitor in accordance with established priorities and budgets the cost effective implementation of:

1. policies and operating plans for infrastructure development and maintenance so that facilities and services are provided to satisfy the needs of the community
2. programs and services to promote the physical, social, cultural, recreational, spiritual and intellectual well being of individuals and the community.

Functions and Powers

Research and Policy

Initiate and consider studies to evaluate the facilities and services provided and needed in relation to public works and services, infrastructure, transportation, public facilities, leisure facilities, cultural facilities and recreational services and adopt appropriate policies and strategies.

Parks Operations

Approve works relating to the acquisition, development, embellishment and maintenance of parks, recreation facilities, bushland and wildlife corridors.

Engineering Works

Approve works relating to the construction, development, maintenance, repair and reconstruction of drains, roads, footpaths, carparks and bikeways.

Implement Programs

Monitor and review the efficiency and effectiveness of performance in relation to the implementation of the adopted programs for public works and services, community services and library services.

Council Lands

Initiate and adopt plans of management for public land to ensure the proper management, development and conservation of resources for the purpose of promoting welfare of the community and a better environment.

Asset Maintenance

Approve works relating to the maintenance, repair and replacement of Council's physical assets including the buildings, plant and parks.

Trees

Approve the planting, conservation, rehabilitation, maintenance, lopping or removal of trees and other vegetation. Deal with approvals, refusals and review of decisions in respect of the administration of the Tree Preservation Order.

Waste Collection

Approve policies and programs for the collection and disposal of waste and the promotion of recycling.

Library and Information

Monitor the performance of Council's library and information services and adopt policies for the upgrading and development of those services.

Community Development

Monitor and review the use and effectiveness of programs and services provided by Council and other bodies for information, leisure, recreation and community support, as well as welfare, social, cultural and intellectual development. Approve appropriate policies, plans and procedures.

Tenders

Accept tenders for any projects

CITY OF RYDE

Request to Address Council Meeting

Details of Applicant:

Name: _____ Daytime 'phone: _____

Address: _____ Fax: _____

_____ E-mail: _____

If you are representing someone else or an organisation, who are you representing?

Details of Proposed Address:

Date of Council Meeting at which you wish to make your address: _____

Are you planning to speak about an item listed on the agenda for this meeting? Yes No

If you are planning to speak on an item on the agenda please indicate which one it is:

Please give a brief outline of your planned address below:

Please return form by 4.30 pm on the day before the meeting:

- For prompt attention by fax to 9952 8055
- In person to the first floor, Ryde Civic Centre, 1 Devlin Street, Ryde
- By post to Locked Bag 2069, North Ryde 1670

Any questions, please 'phone Councillor Services on 9952 8063.

ANNEXURE C**CITY OF RYDE****Public Participation at Council Meetings**

The City of Ryde welcomes public input at Council Meetings

Who can speak at a Council Meeting?

You may speak if you are a resident or a ratepayer of the City of Ryde, or you can have someone else speak on your behalf. You can also speak as a representative of a local community organisation or authority.

Are there any restrictions on what I can speak about?

You may speak on any Council related matter whether it is listed on the agenda or not, except for:

- Matters relating to the determination of a Development Application (including any alleged breaches of the Environmental Planning & Assessment Act)*
- “confidential” matters under the Local Government Act, e.g. some legal matters, tenders, personnel matters – check with the staff if you’re not sure.
- Matters that have been listed and considered by the Works and Community Committee and Planning and Environment Committee; and have been referred to Council for determination and under delegated authority.

To be fair to everyone, you can only speak once at a meeting and you can’t speak on the same subject more than once in a 3-month period.

Are there any rules for speaking at the meeting?

30 minutes is allocated at the beginning of the meeting for items listed on the agenda.
15 minutes is allocated at the end of the meeting for items not listed on the agenda.

Each speaker has 3 minutes – there is a warning bell after 2 minutes. Again for fairness to everyone, no extensions of time are given and there is no question and answer period.

You may use and distribute printed information, sketches etc. but we can’t accommodate audio-visual equipment.

The order of speakers is allocated on a first-come first-served basis.

How do I arrange to speak at a Meeting?

Simply fill out the *Request to Address Council Meeting* form over page and return to Councillor Services by 4.30 pm on the day before the meeting. You can do this up to 14 days in advance of the meeting. We will then get back to you as quickly as possible.

You can get additional forms from the Ryde Civic Centre, any Ryde City Library, ‘phone Councillor Services on 9952 8066, fax 9952 8055 or down-load from Council’s web site www.ryde.nsw.gov.au

Need more information?

Any questions, please ‘phone the Councillor Services on 9952 8063.

The City of Ryde thanks you for your interest in participating in a Council Meeting.

* Where a Development Application or related matter is brought directly to a Council Meeting without previous referral to the Committee of the Whole or Development Committee, the

council may resolve into a Committee of the Whole to permit public participation on the matter in accordance with Annexure D.

ANNEXURE D

GUIDELINES FOR THE CONDUCT OF COMMITTEE INTERVIEWS

- (a) All addresses are to be arranged prior to the commencement of the meeting and a list of persons addressing the committee is to be distributed at the beginning of the meeting.
- (b) A maximum of 5 minutes will be allowed per person or a maximum of 15 minutes for a group.
- (c) No person may speak more than once at a committee meeting, except where more than one item deals directly with the person's property or the person is representing more than one property owner.
- (d) Inspections may be undertaken for the purpose of viewing properties and conducting site interviews.
- (e) The chairperson may vary these guidelines, if such action will promote equity or will facilitate the conduct of the meeting.
- (f) These guidelines shall not apply to persons addressing the committee at the invitation of the committee.