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# Code of Meeting Practice

DRAFT – For Public Exhibition

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## PRELIMINARY INFORMATION

### A. Objectives

The objectives of the City of Ryde's Code of Meeting Practice are to:

- (1) Sets standards for the calling, conduct and recording of Council and Committee meetings in such a way that the public is aware of business to be conducted at all Council and Committee Meetings and the results of Council's determination of those matters.
- (2) Provides clear rules and practices for the orderly conduct of Council and Committee meetings.
- (3) Incorporates procedures to complement the Local Government (General) Regulation 2005 Part 10 - Meetings.
- (4) Provides practices to ensure that decisions made at Council and Committee meetings have legal effect and are within the scope of their powers.
- (5) Allows for referral to the "Standing Rules and Orders of the Legislative Assembly" for the New South Wales Parliament in cases where the Regulations, Act, and Code of Meeting Practice do not provide practices for meeting practice so far as the same are applicable to the proceedings of Council.
- (6) Ensures maximum transparency and openness of all Council and Committee meetings.

### B. Citation and Definitions

#### Citation

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

#### Definitions

In this Code:

- **Act and Regulation**
  - (a) This Code is made pursuant to section 360(2) of the Act.
  - (b) It incorporates relevant provisions of the Regulation and the Act.
  - (c) In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.
- **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 in Section 369 of the Act.
  - (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 appointed or elected by the Council in accordance with clause 260(1) 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 any employee of the Council and, in particular, includes the minutes of meetings of the council or of a committee of the Council;
- **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 the de facto partner of the person or of a person referred to in paragraph (a).
- **The Act** means the Local Government Act 1993;
- **The Code** means the City of Ryde Code of Meeting Practice;
- **The Regulation** means the Local Government (General) Regulation 2005.

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.

## C. Guide to References in this Code of Meeting Practice

This Code has been prepared in accordance with the provisions of the Local Government Act 1993 and the Local Government (General) Regulation 2005. The Division of Local Government's Meeting Practice Note 16 has also been taken into account in preparing the Code.

The section and clauses referred to in brackets under each heading of the Code refer to sections of the Act and clauses of the Regulation.

**Supplementary Provision** refers to supplementary information obtained from the Meetings Practice Note and from previous Codes. Notes in the text of this code are provided to assist in understanding the Code.

**(Supplementary Provision – City of Ryde)** denotes a provision specific to the City of Ryde.

**(Supplementary Provision – Meeting Practice Note)** denotes a provision drawn from the Department of Local Government Practice Note 16 (August 2009)

**PRACTICE** refers to procedures used by City of Ryde Council to embellish the provisions of the Act and Regulations.

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.



## PART 1 – BEFORE THE MEETING

### 1.1 Holding Meetings

#### 1.1.1 When are Meetings Held

**(Local Government Act - Section: 365)**

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

**(Supplementary Provision – City of Ryde)**

Council meetings will commence at 7.30pm unless there are special circumstances that restrict the meeting starting at that time. The meeting of the Planning and Environment Committee will commence at 5.00pm and the Works and Community Committee meeting will commence at 5.00pm unless there are special circumstances that restrict the meetings starting at the specified time.

Council Meetings	7.30pm	Second and fourth Tuesday
Planning and Environment Committee	5.00pm	First and third Tuesday
Works and Community Committee	5.00pm	First and third Tuesday
General Purposes Committee	7.30pm	As required

#### PRACTICE

1. Prior to the end of each calendar year, the General Manager shall submit a draft schedule of meeting dates to Council for the ensuing year and Council shall adopt a schedule of meeting dates in compliance with Section 365 of the Act.
2. No circumstances shall prevent Council from altering the schedule of meeting dates provided the public is given adequate notice.
3. Where four or more Councillors indicate their intention to attend any seminar or the like which would clash with a Council meeting, the date of that meeting shall be altered to ensure the availability of the maximum number of Councillors possible.
4. Council and General Purposes Committee Meetings will generally end prior to 11pm unless the meeting has specifically resolved to extend past this time to complete the business listed.

#### 1.1.2 When are Extraordinary or Special Meetings Held

**(Local Government Act - Section: 366)**

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.

**(Supplementary Provision – Meetings Practice Note)**

Extraordinary meetings are not only held in 'extraordinary' circumstances. These meetings are usually held to deal with special business or in the exceptional circumstance where there is so much business to be dealt with that an additional meeting is required. Reference Clause 242 of the Regulation.

If an extraordinary meeting is called in an emergency, less than the usual three (3) days notice can be given to Councillors. The Act does not define 'emergency'. It could cover things other than natural disasters, states of emergency, or urgent deadlines that must be met. Initially, the General Manager would decide what is an 'emergency'.

## PRACTICE

1. The Mayor must, in accordance with Clause 1.1.2 of this Code of Meeting Practice, call an Extraordinary or Special Meeting of the Council on any matter or matters considered necessary.
2. The Mayor, in consultation with the General Manager, shall determine the time and place of an Extraordinary or Special Meeting, called in accordance with Clause 1.1.2 of this Code of Meeting Practice.
3. The Mayor does not have the authority, in their own right, to call an Extraordinary or Special Council Meeting.
4. In accordance with Clause 367 of the Act the General Manager can give notice of less than three (3) days of an Extraordinary Meeting called in an emergency.

### 1.1.3 Where are Council Meetings Held

#### (Supplementary Provision – City of Ryde)

Meetings of Council will be held in the Council Chamber, 6<sup>th</sup> Floor, Civic Centre, 1 Devlin Street Ryde. Meetings of Committees will be held in Committee Rooms, 5<sup>th</sup> Floor, Civic Centre, 1 Devlin Street, Ryde. Should the Council Chamber or Committee Rooms not be available for any reason, the General Manager will select a suitable alternative venue for meetings.

## 1.2 Notice of Meetings

### 1.2.1 What Notice has to be given to the Public of Ordinary Council and Standing Committees

#### (Local Government Act - Section: 9)

- (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 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.

**(Regulation - Clause: 232)**

- (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 or special meeting of a council or committee.

**PRACTICE**

- 1. During December each year, the full schedule of council and standing committee meetings proposed for the following year is advertised on our website.
- 2. Agendas for Ordinary meetings will be available on our website from Thursday, 12 days prior to the meeting. Copies of the agendas will also be available in the public gallery prior to the meeting.
- 3. Agendas for extraordinary or special meetings will be made available as soon as is possible, and no later than 9.00am on the day of the meeting.

**1.2.2 What Notice has to be given to Councillors for ordinary council and standing committees**

**(Local Government Act - Section: 367)**

- (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 or special 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 business papers in that form.

**(Regulation - Clause: 262)**

- (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.

**PRACTICE**

1. Business papers for Council and Standing Committees meetings shall be distributed to Councillors on the Thursday, 12 days prior to the meeting day.
2. Circumstances may necessitate the distribution of reports after the time specified in point 1 above. Such late reports, where possible will be delivered to Councillors prior to the commencement of the meeting.
3. Where the General Manager determines that a late report is necessary, all endeavours will be made to give public notice of the late report including placing the report on the Council website and making copies available at the meeting.
4. Reports determined by the General Manager to be confidential in nature (refer Section 10A (2) of the Act) will be included in the business paper and these reports shall be marked appropriately as confidential items.

**1.2.3 What notice has to be given of extraordinary or special meetings****(Supplementary Provision – Meetings Practice Note)**

Public notice must be given of the time and place of extraordinary or special meetings, but this does not have to be by publication in a local newspaper.

Where it is not possible to publish details of the meeting in a local newspaper, notice of the meeting will be given on Council's website.

A Council decision will still be valid even if proper notice has not been given for the meeting in which the decision was made, provided a quorum was present. If the meeting does not follow the Code of Meeting Practice there may be a breach of the Act, but this does not mean that the decision is invalid.

**1.3 Agendas and Business Papers****(Regulation - Clause: 240)**

- (1) The General Manager must ensure that the business paper 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 sub-clause (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.

**(Local Government Act – Section 9(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.

**(Supplementary Provision – Meeting Practice Note)**

Certain matters, because of their confidential nature may be considered in closed meetings. The General Manager is to indicate on the agenda, without details, that an item of business is likely to be discussed in a closed part of the meeting. The agenda should also indicate the reason the item will be dealt with in the closed part of the meeting.

**PRACTICE**

1. In accordance with Clause 240 of the Regulation, the General Manager determines any business of which due notice is to be given and therefore included in the Agenda for a meeting of Council or Committee.
2. The Mayor and Councillors will be provided with business papers at the same time through BoardVantage (Council's online document system), noting that Councillors will have the option to be provided with a hard copy version of the business papers.
3. Once the Agenda for a meeting has been sent to Councillors an item of business on the Agenda cannot be removed from the Agenda prior to the meeting, ***unless events have occurred which will render consideration of the matter inappropriate (eg: withdrawal of a Development Application) and it is possible to give adequate notice to Councillors and the public (eg: three working days). It is noted that Committees can resolve to defer an Item on an Agenda to a later date, provided that the resolution states that the Item is listed on a future Agenda for that Committee.***
4. Confidential items shall be marked as confidential 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.

5. 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 of 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.

## 1.4 Order of Business

### (Regulation - Clause: 239)

- (1) At a meeting of a council (other than an extraordinary or special 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 sub-clause (1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.
- (3) Despite clause 250 (*of the Regulation*), only the mover of a motion referred to in sub-clause (2) may speak to the motion before it is put.

### PRACTICE

1. The order of business for Council meetings shall be:
  - 1.1 Acknowledgment of Country and opening statements
  - 1.2 Prayer
  - 1.3 Apologies
  - 1.4 Disclosures of interests
  - 1.5 Petitions (if required)
  - 1.6 Public participation
  - 1.7 Mayoral Minutes
  - 1.8 Confirmation of minutes previous meetings
  - 1.9 Reports from committees
  - 1.10 Motions put without debate
  - 1.11 Report from the General Manager
  - 1.12 Précis of correspondence
  - 1.13 Notices of motion
  - 1.14 Notice of rescission (if required)
  - 1.15 Urgent Items as submitted by the Mayor
  - 1.16 Questions by Councillors as per policy
  - 1.17 Consideration of any business in closed session
  - 1.18 National Anthem
2. The order of business for Standing Committees shall be:
  - 2.1 Receipt of apologies
  - 2.2 Confirmation of minutes
  - 2.3 Motions put without debate
  - 2.4 Officers' reports
3. Council may after confirmation of the Minutes of the previous meeting make a variation of the order of the business to bring forward in the proceedings any matter on the business paper for consideration. Such action may be achieved by a resolution to "suspend standing orders".

4. Only the mover of a motion to suspend "standing orders" may speak to such a motion. Further, there shall be no debate on the motion.
5. Standing orders may be suspended for many reasons including: to bring forward an item which is of particular interest to the public in attendance; or to hear a person/s previously granted special permission to address Council on a matter of business; and where an item within the business paper needs to be considered in conjunction with another item under a separate heading or any other circumstance allowed by the Chairperson.
6. Council and Committee of Council meetings will conclude at 11pm. Business not concluded by this time will be (if no other resolution is passed dealing with disposing of the unfinished business) included on the next Ordinary Council, or if appropriate Standing Committee, business paper. It is noted that the resolution is required to be passed prior to 11pm, except where the meeting is in closed session in which case the resolution is required upon the conclusion of the closed session.

## 1.5 Public Access to Agendas and Business Papers

### (Local Government Act - Section: 11)

- (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.

### (Supplementary Provision – Office of the Information Commissioner NSW)

The Government Information (Public Access) Act 2009 (GIPA Act) establishes a freer, more open approach to gaining access to government information in NSW. The objects of the GIPA Act are to maintain and advance a system of responsible and representative democratic Government that is open, accountable, fair and effective, by:

- authorising and encouraging the proactive public release of government information by agencies, and
- giving members of the public an enforceable right to access government information, and
- providing that access to government information is restricted only when there is an overriding public interest against disclosure.

The GIPA Act applies to all NSW government departments, and also extends to Ministers and their staff, local councils, state owned corporations, courts in their non-judicial functions, and to certain public authorities such as universities.

The guiding principle of the GIPA Act is the public interest – it is a 'push' model, with a general presumption that disclosure of information is in the public interest, unless a strong case to the contrary can be demonstrated. Under the GIPA Act, it is compulsory for agencies to disclose information about their structure, functions and policies, and the proactive and informal disclosure of other information is promoted and encouraged.

Formal access applications should only need to be lodged as a last resort. Where formal applications are required, the Act sets out the process that applicants and agencies need to follow, as well as the options for review of access decisions.

#### Government Information (Public Access) Regulation 2009

- prescribes additional open access information that Ministers, departments and statutory bodies must make publicly available
- sets out the information regarding formal access applications that agencies must include in their annual reports
- in the case of an access application relating to a school, extends the period in which the application must be decided if the usual 20-day period for deciding the application occurs during the school holidays
- specifies the corresponding FOI laws of other Australian jurisdictions under which information may be exempt, as this is a relevant public interest consideration against disclosure under section 14
- declares certain bodies to be public authorities for the purpose of the GIPA Act
- declares certain entities to be sub-agencies and parent agencies for the purpose of access applications
- provides that records held by the Audit Office or the Ombudsman's Office that were originally created or received by another agency are taken to be held by that other agency.

#### **(Supplementary Provision – Meeting Practice Note)**

Council may direct the General Manager to provide additional information. Where this is the case the additional papers will be marked separately from the business papers so as to avoid any confusion.



## PART 2 – AT THE MEETING: GENERAL

### 2.1 Coming Together

#### 2.1.1 Presence at Meetings

**(Regulation - Clause: 235)**

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

**(Local Government Act - Section: 376)**

- (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 employment of the General Manager.

**(Supplementary Provision – Meetings Practice Note)**

If a Councillor is anywhere in the room where the Council or Committee meeting is being held, they are considered to be present for the purposes of voting. This means that if they are in the room but do not vote on an issue their vote is taken as against the motion.

#### PRACTICE

1. The seating arrangements for a meeting shall be determined by the chairperson of the meeting.
2. A Councillor shall only be present at a Council or Committee meeting whilst in the Council Chamber.
3. In relation to LGA 376 (3) above, other employees of Council shall also be excluded from the meeting in such circumstances unless otherwise directed by the Chairperson.
4. The presence of Officers at Council meetings shall be at the direction of the general manager and as required under the terms of employment contracts.
5. On occasions, managers or staff with specialist knowledge of a particular matter may be required to attend Council or Committee meetings. Such attendance shall be at the discretion of the General Manager.
6. The area known as the Council Chamber includes the public gallery seating area. A Councillor, officer, or member of the press or public have not left the Council Chamber until they have passed through either of the two doors leading to it.

### 2.1.2 Who is entitled to attend meetings

**(Local Government Act - Section: 10)**

- (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 a committee if expelled from the meeting:
  - (a) by a resolution of the meeting, or
  - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.
  
- (3) A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.

**PRACTICE**

Members of the public may be permitted to address meetings of Council or Standing Committees on items before the meeting, in accordance with our PRACTICE on public addresses (refer Appendix “D”).

The reference in the regulation in Clause 10(3) above is a reference to Clauses 256 to 258 (inclusive) of the Regulation.

### 2.1.3 Who presides at meetings of the council

**(Local Government Act - Section: 369)**

- (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.

**PRACTICE**

1. An election to be conducted in accordance with sub-clause 2 of the Act as above shall be conducted by the General Manager or his nominee and the vote shall be recorded in the minutes.
2. The role of the Chairperson is outlined in Appendix “A”.

## 2.1.4 Councillor to be elected to preside at certain meetings

### (Regulation - Clause: 236)

- (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 sub-clause (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.

### PRACTICE

1. The provisions of clause 236 of the Regulation above shall also apply to Committee meetings ie: Works and Community Committee and Planning and Environment Committee.
2. An election to be conducted in accordance with sub-clause 2 shall be conducted by the General Manager or his nominee and the vote shall be recorded in the minutes.
3. The provisions related to the election of a person to preside do not apply where a previously elected or appointed Deputy Chairperson is present.

## 2.1.5 Chairperson to have precedence

### (Regulation - Clause: 237)

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.

**PRACTICE**

1. The Mayor as Chairperson or a Councillor elected as Chairperson shall be empowered with the conduct of the Council or Committee meeting subject to the provisions of the Local Government Act 1993, the Local Government (General) Regulation 2005 and Council's adopted Code of Meeting Practice.
2. A Chairperson shall be heard without interruption and everyone should maintain silence whilst the Chairperson is speaking.
3. A Councillor shall address all remarks or questions, either through or to the Chairperson.
4. A Councillor or Officer of Council when in a Council meeting shall address and speak of other Councillors or Officers by their official designation eg. Mayor, Chairperson, Councillor, Group Manager etc.
5. Once the debate is closed, the Mayor or Councillor in his or her capacity as Chairperson shall not further debate the matter.

**2.2 Business at Council Meetings****2.2.1 Giving notice of business****(Regulation - Clause: 241)**

- (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) Sub-clause (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 sub-clause (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 sub-clause (3) can speak to the motion before it is put.

### PRACTICE

1. A Councillor may place a motion before Council provided the conditions of Clause 241 of the Regulation above have been met.
2. Notices of Motion received by 5pm on the Wednesday ~~13 days~~ prior to the Council meeting shall be included on the business paper by the General Manager, if the General Manager considers that the content of the motion meets the requirements of Clause 240 (2) of the Local Government (General) Regulation 2005.
3. Notices of Motion may only be dealt with at an ordinary council meeting.
4. A Notice of Motion (except a Notice of Motion to rescind a resolution of Council – refer to s372 of the Act) is only required to be signed by the proposer; the formal moving and seconding shall take place at the meeting.
5. The wording of the motion shall be precise and clear and shall be reprinted on the business paper without alteration.
6. In putting forward Notices of Motion, Councillors must, balance their civic responsibilities for representing the interest of their community with their obligation to use Council's resources effectively and efficiently.
7. The Chairperson may call over the Notices of Motion on the business paper, in order in which they appear thereon; and if there is no objection to a motion being taken as a formal motion, it may, without discussion be put to the vote. In this case, the Motion shall still be moved and seconded.
8. All Notices of Motion shall be numbered as received and shall be entered by the General Manager upon the business paper in the order in which they are received.
9. In relation to sub-clause 3, if a Councillor wishes to raise a motion without notice, the basis of the motion shall be put to the Mayor who will first rule whether the motion is one of urgency, and therefore if it is in order for Council to consider it.
10. In order to meet the intent of providing all Councillors and the public with proper notice of business to be conducted, late reports will not be considered except in accordance with the provisions of sub-clause 3 of Regulation 241 above.

### 2.2.2 Agenda for extraordinary or special meeting

#### (Regulation - Clause: 242)

- (1) The General Manager must ensure that the agenda for an extraordinary or special meeting of a council deals only with the matters stated in the notice of the meeting.
- (2) Despite sub-clause (1), business may be transacted at an extraordinary or special 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 sub-clause (2) can speak to the motion before it is put.

### 2.2.3 Petitions may be presented to the Council

#### PRACTICE

1. A Councillor may without notice present a petition to the Council during that part of the meeting designated for the presentation of petitions. (see order of business)
2. Any Councillor presenting a petition will be responsible for ensuring that:
  - (i) he or she is familiar with the contents and purpose of the petition, and
  - (ii) The petition is not derogatory or defamatory.

### 2.2.4 Questions may be put to Councillors and council employees

#### (Regulation - Clause: 249)

- (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 council employee under this clause.

#### (Supplementary Provision – Meetings Practice Note)

Allowing questions without notice is inconsistent with the provisions of clause 241(1) of the Local Government (General) Regulation 2005 which requires notice to be given of matters to be raised at council meetings.

The purpose of the notice requirement is to enable all Councillors and the public to be aware, by reading the agenda for the meeting, of matters that will be raised at the meeting.

If the subject matter of a question is genuinely urgent and the question is not on the agenda, the question could be raised under clause 241(3) of the Regulation. That clause allows a matter to be raised before council, despite notice not having been given.

Questions must be put succinctly and without argument.

#### PRACTICE

1. Questions Without Notice raised at a Council meeting, shall be in accordance with Subclause 1 of the Regulation above.
2. Questions With Notice will be in a written format when asked, then delivered to the General Manger for response at the Meeting by 10am on the day preceding the Meeting. Each Councillor may put a maximum of five questions to any meeting.

3. Questions put to any Council employee during a Council meeting shall only relate to the business before Council or a particular matter under discussion.
4. If a question is put without notice, it can be ruled out of order if it does not relate to, or arise naturally out of, subjects before Council.
5. A Councillor who gives due notice of a question has no right to demand that it shall be replied to.
6. Responses to questions with notice from Councillors shall be recorded in the Minutes either verbatim or in précis form. Where timing permits, questions with notice and responses to questions with notice from Councillors shall be included in the Council meeting agenda.
7. Questions and motions which are of a personal nature or have nothing to do with Council business shall not be raised or debated.

### 2.2.5 Limitation as to number of speeches

#### (Regulation - Clause: 250)

- (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 sub-clauses (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 sub-clause (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 sub-clause (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.

**PRACTICE**

1. The provisions of Clause 250 of the Regulation above shall also apply to Committee meetings.
2. In relation to sub-clause (3) of this section of the Regulation, a Councillor may be granted with the leave of the meeting, an extension of three (3) minutes in which to complete his/her speech. Further extensions will be of two minutes at a time and granted upon resolution of Council.
3. Debate shall not be permitted on any motion to which no objection has been raised.

**2.2.6 Committee of the whole****(Regulation - Clause: 259)**

- (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.

**(Supplementary Provision – Meetings Practice Note)**

During the course of a Council Meeting, Council may resolve itself into the 'committee of the whole' under section 373 of the Local Government Act. That part of the meeting then becomes a committee meeting.

The only advantage of a Council forming a committee of the whole is that by reason of clause 259 of the Regulation the limits on the number and duration of Councillors speeches referred to in clause 250 of the Regulation do not apply.

If at the time Council resolves itself into the 'committee of the whole' the meeting was open to the public, then the meeting will remain open to the public unless council resolves to exclude the public under section 10A of the Local Government Act.

The committee of the whole may not pass a Council resolution. It makes recommendations to Council in the same way as any other committee of Council. Once the committee has completed its business and the Council meeting has resumed Council considers any recommendations made by the committee.



**PRACTICE**

After a meeting resolves itself out of the 'committee of the whole', any recommendations from the 'committee of the whole' are to be considered by the Council meeting immediately for determination.

**2.2.7 Report of a Departmental representative to be tabled at council meeting****(Regulation - Clause: 244)**

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.

**2.3 Mayoral Minutes****(Regulation - Clause: 243)**

- (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.

**PRACTICE**

- 1. A "Mayoral Minute" prepared in accordance with this regulation may be by formal notice contained in the business paper or tabled at the meeting.
- 2. Although a seconder is not required if the Mayor is the mover, the normal rules of debate shall apply to ensure the motion is adequately discussed prior to being put to the meeting for a vote.

## 2.4 Voting at Meetings

### 2.4.1 Voting entitlements of Councillors

**(Local Government Act - Section: 370)**

- (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.

**(Supplementary Provision – Meetings Practice Note)**

Each Councillor is entitled to one vote on each motion that comes before the meeting. If the voting on a motion is equal, the chairperson has a second or “casting” vote. The legislation does not specify how a casting vote is to be used. It is a matter for the chairperson as to how they will vote, after taking into consideration all relevant information. They do not need to vote the same way on their first and second vote. Should the chairperson decline or fail to exercise a casting vote the motion being voted upon would be lost.

**(Supplementary Provision – City of Ryde)**

At the Planning and Environment Committee and Works and Community Committee the Chair shall not have a casting vote. Any matters on which the voting is equal shall be minuted as AT LARGE and referred to the next appropriate Council meeting.

#### PRACTICE

1. The provision of Section 370 of the Local Government Act shall also apply to Committee meetings of which all Councillors are a member.
2. A Councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

### 2.4.2 Conduct of voting at council meetings

**(Regulation - Clause: 251)**

- (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.

**(Supplementary Provision – Meetings Practice Note)**

A Councillor must be present (in person) at a council or committee meeting to vote (Regulation Clause 235). Councillors cannot participate in a meeting by video-conferencing or tele-conference. There is also no provision for proxy votes to be allowed at council and committee meetings.

A Councillor with a pecuniary interest in a matter cannot be present at, or in sight of, the meeting that is considering the matter or voting on it.

**(Supplementary Provision – Local Government (General) Regulation - Elections)**

The Local Government (General) Regulations 2005 Part 11 Elections 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 of Part 11 and clause 3 of Schedule 7). Clause 3 of Schedule 7 also makes it clear that "ballot" has its normal meaning of secret ballot.

**PRACTICE**

1. The provisions of clause 251 of the Regulation as above shall also apply to Committee meetings.
2. 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. A Councillor shall be present at a meeting whilst ever in the Council Chamber. The area known as the Council Chamber includes the public gallery seating area. A Councillor is deemed not to have left the Chamber until they have passed through either of the two doors leading to it.
4. In relation to the recording of motions and amendments, the minutes of the meeting shall show the motion or amendment, whether it was "carried" or "lost", and the mover and seconder of the motion or amendment.
5. If a Councillor is temporarily absent from the Council Chamber during a meeting, his/her absence shall be recorded in the minutes of the meeting.
6. 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 or amendment being recorded or otherwise the words "unanimous" being recorded when all voting is the same.

**2.4.3 Recording of voting on planning matters**

**(Local Government Act - Section: 375A)**

- (1) In this section, "planning decision" means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
- (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
  - (b) not including the making of an order under Division 2A of Part 6 of that Act.

- (2) The General Manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the Councillors who supported the decision and the names of any Councillors who opposed (or are taken to have opposed) the decision.
- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- (5) This section extends to a meeting that is closed to the public.

#### **PRACTICE**

1. At the City of Ryde, a division is to be called for all motions and amendments which notes the voting for and against. This is to include voting for all planning matters as required by Section 375A of the Act.
2. The Planning and Environment Committee has delegated authority to determine planning matters in accordance with the delegation set out in this Code.

## 2.5 Decisions of Council

### 2.5.1 Valid Decisions

**(Local Government Act - Section: 371)**

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 that council.

**(Supplementary Provision – Meetings Practice Note)**

A quorum is the minimum number of Councillors necessary to conduct a meeting.

**(Supplementary Provision – City of Ryde)**

At Ryde, the quorum for council meetings is seven Councillors. For Works and Community Committee and Planning and Environment Committee, a quorum is three Councillors.

If a quorum is not present at any time during a meeting, then the meeting cannot continue until a quorum is achieved or restored. If a quorum cannot be achieved or restored, the meeting must be adjourned (Regulation - Clause 233).

In accordance with Section 375 of the Act, decisions made by Council shall be accurately recorded in the minutes of the meeting.

The enactment of any resolution of Council will commence no earlier than midday following the day of the meeting, unless otherwise resolved by Council. (11/12/12)

### 2.5.2 Certain Circumstances do not invalidate a Council Decision

**(Local Government Act - Section: 374)**

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 committee meeting in accordance with section 451; or
- (e) a failure to comply with the code of meeting practice.

**(Supplementary Provision – City of Ryde)**

It would appear the intention of this Section is to validate a council's proceedings where there is some defect. The section does not provide a loophole for Chairpersons, Councillors and Officers of Council to avoid compliance with the requirements of the Act, Regulation or Code of Meeting Practice. The Section merely provides that the proceedings are not invalidated because of a failure on someone's part to observe a legal requirement or regulation.

**PRACTICE**

In accordance with Section 374 of the Local Government Act, a failure to comply with the Code of Meeting Practice does not invalidate proceedings of a meeting. This includes points of order and determinations with regard to meeting procedure.

**2.5.3 Council Decisions Prior to a Local Government Election (Caretaker Period)****(Local Government Act)**

The Local Government Amendment Bill 2012 was assented on 4 April 2012 and outlines that caretaker provisions will commence four weeks preceding an ordinary election.

Schedule 6 Regulations outlined in the Local Government Amendment Bill 2012 quotes the caretaker provisions as follows:-

14A The exercise of functions by a Council in the 4 weeks preceding an ordinary election.

Examples. Limitation on determination of controversial or significant development applications.

The new or permanent appointment of General Managers.

Entering into significant contracts or undertakings.

**(Supplementary Provision – Department Circular 12/19)**

Like Commonwealth and State Government, local councils are expected to assume a caretaker role during the election period to ensure that major decisions are not made which would limit the actions of an incoming council.

On 22 June 2012 amendments were made to the Local Government (General) Regulation to mandate what were formally caretaker conventions.

Clause 393B requires that the council, the General Manager or any other delegate of the council (other than a Joint Regional Planning Panel or the Central Sydney Planning Committee) must not exercise the following functions during the four weeks preceding an ordinary election (caretaker period):

- Entering into any contract or undertaking involving an expenditure or receipt by the council of an amount equal to or greater than \$150,000 or 1% of the council's revenue from rates in the preceding financial year (whichever is the larger).
- Determining a controversial development application, except where a failure to make such a determination would give rise to a deemed refusal, or such a deemed refusal arose before the commencement of the caretaker period. The term "controversial development application" is defined as one for which at least 25 persons have made submissions by way of objection.
- Appointing or renewing the appointment of the General Manager or terminating their employment. (This does not include the appointment of an acting or temporary General Manager).

## 2.6 When do the Mayor and Councillors start and finish holding office?

**(Supplementary Provision – Meetings Practice Note)**

All Councillors start holding office on the day the person is declared to be elected (LGA sec 233). All Councillors, other than the Mayor, stop holding office on the day of the ordinary election (LGA Sec 233).

The Mayor holds office until his or her successor is declared elected (LGA Sec 230). This applies even if the (outgoing) Mayor has not been re-elected.

## 2.7 Defamatory Statements

**(Supplementary Provision – Meetings Practice Note)**

The NSW Ombudsman's publication "Better Service and Communication for Councils", states:

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

Councillors, staff and members of the public can seek legal compensation, apology etc if they are defamed.

Councillors acting within their official capacity at meetings of council or council committees have a defence of “qualified privilege” to actions of defamation. This recognises that Councillors may need to speak freely and publicly in carrying out their duties. However, qualified privilege must be treated with great caution. It only covers statements made at a council or committee meeting when a Councillor is carrying out his/her duties and on business relevant to the council. Statements must also be made with good intentions, not malice.

A statement made outside a council or committee meeting will not be protected by qualified privilege, but may be protected under the Defamation Act 2005. Councillors should be guided by their own legal advice on defamation issues.

#### **(Supplementary Provision – Case Law)**

- (1) Councillors should be aware in terms of their participation at meetings of the laws in relation to defamation.
- (2) Councillors may be sued for defamation for remarks made in meetings of the Council or its Committees which are open to the public. While the defences of qualified privilege or justification may attach, there is no absolute privilege in relation to Council proceedings of the kind which attaches to statements made in Parliamentary proceedings.
- (3) The law of defamation is primarily concerned with the protection of reputation and to provide a remedy for injury to reputation caused by any defamatory communication or publication. A statement may be said to be defamatory if the communication or publication is likely to cause the ordinary, reasonable member of the community to think less of the person concerned, or to shun or avoid him/her. Of course, for a statement to be defamatory, its meaning must be communicated to a person other than the defamed person. This can be by spoken words, signs or gestures, writing, images, in person or by broadcast. (Refer Sly and Wiegall - "The Local Government Law Guide" (Dec.93) pp.412-414).



## 2.8 Role of the Mayor Between Meetings

### (Local Government Act - Section: 226)

The role of the Mayor is:

- to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council
- to exercise such other functions of the council as the council determines
- to preside at meetings of the council
- to carry out the civic and ceremonial functions of the Mayoral office.

### (Supplementary Provision – Meetings Practice Note)

When necessary, the Mayor may exercise the policy-making functions of the council between meetings (LGA Sec 226). The Mayor should report his/her actions to the next meeting of council.

### PRACTICE

The Mayor is also required to undertake some administrative functions between meetings in accordance with adopted Council Policies.

## 2.9 Public Addresses

### (Supplementary Provision – Meetings Practice Note)

There is no automatic right under legislation for the public to participate in a council or committee meeting, either by written submission or oral presentation. However, it is considered good practice to allow public addresses to Council and committee meetings in certain circumstances.

### (Supplementary Provision – City of Ryde)

City of Ryde rules for public addresses are contained in Appendix **G D**. It is noted that the Chairperson may vary these practices, if such action will promote equity or will facilitate the conduct of the meeting.

## 2.10 Audio or visual recording of meetings

### 2.10.1 Tape recording of meeting of council or committee: prohibited without permission

#### (Regulation - Clause: 273)

- (1) A person may use a tape recorder to record the proceedings of a meeting of a council or a committee of a council only with the authority of 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 of a council for using or having used a tape recorder in contravention of this clause.
- (3) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by 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 or not.

### **PRACTICE**

The use of visual or audio recording devices is not permitted without Council's prior approval.

#### **2.10.2 Audio recording of Meetings and Webcasting**

##### **(Supplementary Provision – City of Ryde)**

Council has resolved (17 July 2012) to undertake webcasting of Council Meetings.

Additionally, Council has resolved (9 February 2010) that Audio recordings will be made of Council meetings for the purpose of:

- assisting in the preparation of minutes;
- ensuring decisions are accurately recorded;
- verifying the accuracy of minutes prior to their confirmation.

In order to comply with the Listening Devices Act 1984 and the Privacy and Personal Information Protection Act 1998 advice is provided to the members of the public attending meetings that an audio recording and webcast of the meeting will be made. The advice is displayed on notices in the public gallery and included on the call notice for each meeting. The wording of the advice is as follows:

‘This meeting is being recorded on audio tape for minute-taking purposes as authorised by the Local Government Act 1993. The meeting will also be webcast live and for access through Council's website.’

Audio recordings and webcasts of meetings to which they relate are destroyed after three months of their creation, in accordance with the State Records Act.

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

### 3.1 Pecuniary and Non-Pecuniary Interests

#### 3.1.1 What is a pecuniary interest

**(Local Government Act - Section: 442)**

- (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 or another person with whom the person is associated as provided in section 443.
- (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.

#### 3.1.2 What is a non-pecuniary interest

**(Supplementary Provision – Meetings Practice Note)**

A non-pecuniary conflict of interest is a conflict between a Councillor's private interest in a matter being considered by the council, and his or her interest as a civic official (for example, kinship, membership of any association, society or trade union or involvement or interest in any trade union).

### 3.2 Pecuniary Conflicts of Interest

#### 3.2.1 Who has a pecuniary interest

**(Local Government Act - Section: 443)**

- (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) 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.

**(Supplementary Provision – City of Ryde)**

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. (Refer to Council's Code of Conduct).

**3.2.2 What interests do not have to be disclosed****(Local Government Act - Section: 448)**

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 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 a person, company or body referred to in section 443 (1) (b) or (c) has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or
  - (ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i), if the person or the person, company or body referred to in section 443 (1) (b) or (c) 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.

**(Local Government Act - Section: 458)**

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

- (a) that the number of Councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- (b) that it is in the interests of the electors for the area to do so.

### 3.2.3 Disclosure and presence in meetings

**(Local Government Act - Section: 451)**

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

- (4) Subsections (1) and (2) do not apply to a Councillor who has a pecuniary interest in a matter that is being considered at a meeting, if:
  - (a) the matter is a proposal relating to:
    - (i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or
    - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
  - (b) the Councillor made a special disclosure under this section in relation to the interest before the commencement of the meeting.
- (5) The special disclosure of the pecuniary interest must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and must:
  - (a) be in the form prescribed by the regulations, and
  - (b) contain the information required by the regulations.

**(Supplementary Provision – City of Ryde)**

1. A general notice of disclosure can be made in some circumstances pursuant to section 454 of the Act which will fulfil the requirement of clause (1).
2. 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.
3. A Councillor or a member of a council committee who has a pecuniary or 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 make a disclosure, in writing, on the appropriate form, to the meeting as soon as practicable

### 3.2 Disclosures to be recorded

**(Local Government Act - Section: 453)**

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

### 3.3 General disclosure

**(Local Government Act - Section: 454)**

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

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

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

### 3.4 Circumstances in which sections 451 and 456 of the LGA are not breached

**(Local Government Act - Section: 457)**

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.

**(Local Government Act - Section: 456)**

- (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

## 3.5 Non Pecuniary Conflicts of Interest

### 3.5.1 Managing Non-Pecuniary Conflicts of Interest

#### **(Supplementary Provision – Meetings Practice Note)**

A non-pecuniary conflict of interests is a conflict between a Councillor's private interest in a matter being considered by the council, and his or her interest as a civic official (for example, kinship, membership of any association, society or trade union or involvement or interest in any trade union).

A Councillor should give consideration to Council's Code of Conduct with regard to managing non-pecuniary interests with regard to disclosure of interests and participation in meetings.

If a Councillor has a non-pecuniary interest that conflicts with their public duty they must fully disclose that interest in writing as soon as practicable, even if it is not significant. Should a Councillor be in doubt about a possible non-pecuniary conflict of interest they should seek legal advice.

#### **(Supplementary Provision – City of Ryde Code of Conduct)**

Code: 2.13. Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.

Code: 2.14. If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 13.

Code: 2.15. How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.

Code: 2.16. As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:

- (a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
- (b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
- (c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.



Code: 2.17. If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:

- (a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official
- (b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply

Code: 2.18. If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances

## 3.6 Political Donations

### **(Supplementary Provision – City of Ryde Code of Conduct)**

Code: 2.23. Where a Councillor or the Councillor's "official agent" has received "political contributions" or "political donations", as the case may be, within the meaning of the Election Funding Act 1981 exceeding \$1,000 which directly benefit their campaign:

- (a) from a political or campaign donor or related entity in the previous four years; and
- (b) where the political or campaign donor or related entity has a matter before council,

then the Councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 17(b).

Code: 2.24. Councillors should note that political contributions below \$1,000, or political contributions to a registered political party or group by which a Councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.

Code: 2.25. If a Councillor has received a donation of the kind referred to in clause.2.23, that Councillor is not prevented from participating in a decision to delegate council's decision-making role to council staff or appointing another person or body to make the decision in accordance with the law.

## PART 4 – QUORUM AND ATTENDANCE

### 4.1 Attendance at Meetings

#### 4.1.1 Councillor absence from meetings

**(Supplementary Provision – Meetings Practice Note)**

If a Councillor is absent from three consecutive ordinary meetings of Council without the leave of the council having been granted then the Councillor automatically vacates office (LGA Sec 234 [1]). Leave can only be granted by Council prior to the meeting or at the meeting concerned. However this provision does not apply to a Councillor suspended from office by the Local Government Pecuniary Interest Tribunal (LGA Sec 482).

#### 4.1.2 How to apply for leave of absence

**(Regulation - Clause: 235A)**

(1) A Councillor's application for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the Councillor intends to be absent.

(2) A Councillor who intends to attend a council meeting despite having been granted leave of absence should, if practicable, give the General Manager at least 2 days' notice of his or her intention to attend.

**(Supplementary Provision – Meetings Practice Note)**

A request for leave of absence by a Councillor from a meeting should be made in writing to the General Manager. The written request should state the dates of the meetings the Councillor is expected to be absent, together with the reasons for absence.

Councillor leave of absence may be granted at the discretion of Council (LGA Sec 234 [1]). Leave of absence may be granted by the council prior to the meeting, or at the meeting for which leave is requested. An application for leave does not need to be made in person and the council may grant leave in the Councillor's absence (LGA Sec 234 [2]).

#### 4.1.3 Is tendering an apology the same as applying for leave of absence?

**(Supplementary Provision – Meetings Practice Note)**

No. The tendering of an apology is an accepted convention by which those present at a meeting are notified that the Councillor tendering the apology will not be attending the meeting. It is a form of courtesy to those attending the meeting. Its purpose is also to aid the efficient conduct of meetings by informing the chairperson as to who will not be attending. This avoids delaying the opening of a meeting pending the arrival of such persons.

## 4.2 Quorum at Meetings

### 4.2.1 What is a quorum?

**(Supplementary Provision – Meetings Practice Note)**

A quorum is the minimum number of Councillors required to hold a meeting. This minimum is set so that decisions are made by an appropriate number of Councillors. Provided a quorum of Councillors is present, council business can go ahead. If a quorum is not reached and maintained, a meeting cannot commence/continue.

### 4.2.2 What is the quorum for a meeting

**(Local Government Act - Section: 368)**

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.

**(Supplementary Provision – Meetings Practice Note)**

In determining the number of Councillors for the purposes of calculating quorum any casual vacancies in Councillor offices and any suspended Councillors are not to be counted.

Without a quorum the meeting is not a meeting of the Council. While a meeting without a quorum can be opened, resolutions cannot be made and any action taken will have no legal validity.

**(Supplementary Provision – City of Ryde)**

Without a quorum, the meeting is to be adjourned in accordance with Clause 4.2.4 of this Code of Meeting Practice.

Ryde has twelve Councillors; therefore seven Councillors must be present at a council or standing committee meeting of which all Councillors are a member to form a quorum. If, for example, one Councillor has resigned, then eleven Councillors hold office for the time being and the quorum would be six Councillors.

The Quorum for Works and Community Committee and Planning and Environment Committee is three (3) Councillors of that Committee, noting that the Mayor is a member of both committees ex-officio.

### 4.2.3 How do Pecuniary Interests affect a Quorum

**(Local Government Act - Section: 458)**

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

- (a) that the number of Councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business; or
- (b) that it is in the interests of the electors for the area to do so.

**(Supplementary Provision – Meetings Practice Note)**

A Councillor who is not capable of voting on the business before the council, by reason of having disclosed a pecuniary interest in a matter, is regarded as being absent from a meeting for the purpose of determining whether or not a quorum is present.

**(Supplementary Provision – Case Law)**

The case of Levenstrath Community Association Incorporated v Council of the Shire of Nymboida (1999) confirmed that a Councillor who is not capable of voting on the business before the council (by reason of having disclosed a pecuniary interest or a significant non-pecuniary interest in a matter) is regarded as being absent from the meeting for the purpose of determining whether or not a quorum is present.

**4.2.4 What happens when a quorum is not present****(Regulation - Clause: 233)**

- (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.

**PRACTICE**

1. If during a meeting of Council or Standing Committee, a quorum is not present, the Chairperson shall suspend the proceedings for a period of three minutes. If a quorum is not then present at the end of the three-minute suspension, the provisions of Clause 233 of the Regulation shall apply. This adjournment is to allow the return of any departed Councillors.
2. Where apologies have been received for a majority of Councillors the meeting will immediately be adjourned to a date and time to be specified by the Chair.
3. A reconvened meeting, being for the purpose of completing unfinished business of the previous adjourned meeting shall be deemed a continuation of that adjourned meeting, and no new business shall be brought forward.
4. The minutes of the meeting shall record the names of those Councillors who have left the meeting, and the time at which they left the Council Chamber/meeting venue.
5. For City of Ryde Standing Committees, if no quorum is present, the balance of items for consideration will be referred to the next practicable Council Meeting for determination.

#### 4.2.5 Adjourned Meetings

**(Supplementary Provision – Meetings Practice Note)**

A meeting may be adjourned to a time later in the same day. An adjourned meeting is a continuation of the same meeting; it is not a new meeting.

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

## PART 5 – MOTIONS AND AMENDMENTS

### 5.1 Terminology

#### 5.1.1 What is a motion

**(Supplementary Provision – Meetings Practice Note)**

A motion is a proposal to be considered by council at a meeting. It is a request to do something or to express an opinion about something. A motion formally puts the subject of the motion as an item of business for the council to consider.

Further information on motions is contained in Appendix B.

#### 5.1.2 What is an amendment

**(Supplementary Provision – Meetings Practice Note)**

An amendment is a change to the motion before the council (the initial motion), and is moved while the initial motion is being debated. An amendment to a motion must be put forward in a motion itself. It cannot be a direct negative of the original motion.

**(Supplementary Provision – City of Ryde)**

Only one amendment can be before the meeting at any one time, even though notice of a foreshadowed amendment is permissible.

Further information on Amendments is contained in Appendix B to this Code of Meeting Practice.

#### 5.1.3 What is a resolution

**(Supplementary Provision – Meetings Practice Note)**

A resolution is a motion that has been passed by a majority of Councillors at the meeting. While in practice it means the “council decision,” the word “resolution” also indicates the process by which the decision was made.

### 5.2 Motions

#### 5.2.1 Motions to be seconded

**(Regulation - Clause: 246)**

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). (*of the Local Government (general) Regulation*)

**PRACTICE**

1. The mover of a motion may be allowed by the Chairperson to speak to the motion before a “seconded” is sought.
2. The seconder of a motion or of an amendment may reserve the right to speak later in the debate.
3. Where a motion has been seconded, it shall not be withdrawn without the seconder's permission.

**5.3 Amendments to Motions****5.3.1 Moving an Amendment to a Motion****(Supplementary Provision – Meetings Practice Note)**

An amendment to a motion requires a mover and a seconder to put it forward. To be accepted as an amendment, it must relate to the motion. The amendment must be dealt with before voting on the main motion takes place. If the amendment is carried, it becomes the motion and the original motion lapses.

Debate is only allowed in relation to the amendment and not the main motion – which is suspended while the amendment is considered.

**5.3.2 How subsequent amendments may be moved****(Regulation - Clause: 247)**

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.

**(Supplementary Provision – City of Ryde)**

If a Councillor intends to move a motion or amendment which differs from the recommendation included in the Business Paper, such motion or amendment should, where possible, be provided to the minute taker either electronically or in hard copy format, preferably prior to the meeting. This will allow the motion, amendment, etc to be displayed accurately on the visual screens at the time that the motion or amendment is being discussed.

Where a motion or amendment is developed by Councillors as a consequence of debate during the Meeting, the draft motion or amendment will be displayed on the visual screens by the minute taker to provide Councillors with the opportunity to review the motion or amendment prior to voting to ensure the intent of the motion or amendment is accurately reflected.

**PRACTICE**

1. An original amendment to a motion shall be dealt with before the motion and before any other amendment can be considered.
2. If an amendment and a motion are before the Chair, a Councillor may “foreshadow” a further amendment to the motion, although it cannot be debated until such time as only a motion remains. The mover of an amendment shall be given the opportunity to explain the proposed amendment before the seconder is called for.
3. When an amendment is defeated, the original motion shall stand and then and only then a further amendment may be moved, seconded, debated and voted upon. If the further amendment is defeated, the original motion still stands and another amendment then can be moved.
4. When an amendment is carried, it becomes the motion and shall be put to the vote.
5. An amendment which is a direct negative of the motion proposed is not legitimate and shall not be accepted by the Chairperson.
6. Only discussion relevant to the particular amendment that is being dealt with shall be allowed.
7. The mover of an original motion may exercise a right of reply but shall confine himself/herself to answering remarks previously made and not introduce new information.
8. Additions and alterations to a motion or amendment shall be allowed, so long as the fundamental nature and effect of the motion is not significantly changed. An addition or alteration which is a direct negative of the motion it seeks to alter or amend is not permitted, as the same effect can be achieved by voting against the original motion. Such alterations and additions may be in the form of an addendum subject to acceptance by the mover and seconder.

**5.4 Notice of motion - absence of mover****(Regulation - Clause: 245)**

In the absence of a Councillor who has placed a notice of motion on the business paper 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.

**PRACTICE**

1. A Councillor who has placed a Notice of Motion on the business paper and is unable to attend the meeting may request that the motion be deferred, and upon receipt of the request, and provided the request is received prior to the meeting the Chairperson shall defer the motion to a future meeting.
2. A request by a Councillor to withdraw a Notice of Motion on the business paper standing in his or her name may be submitted in writing or raised verbally by that Councillor on the occasion such Notice of Motion is before the Council.



## 5.5 Chairperson's duty with respect to motions

### (Regulation - Clause: 238)

- (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.

### (Supplementary Provision – reference Section 223 of the Act)

- (a) Section 223 of the Act provides that the "role of Council is to direct and control the affairs of the Council in accordance with the Act."
- (b) Matters which do not directly affect Local Government and are not within the scope of any Act conferring functions upon Council are out of order.

### PRACTICE

1. The Chairperson has right to rule out of order any motion on the ground that the proposed resolution would if implemented, involve a contravention of the law.
2. Adjournments (except where disorder arises or a quorum is not present) shall only be taken following a resolution to that effect by the Council or Committee.
3. Debate shall not be permitted on any motion for adjournment of a meeting of the Council or Committee.
4. If a motion for adjournment is negated, 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 negated motion for adjournment except as may be acceptable to the Chairperson.
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 shall make a determination with respect to whichever of these matters has not then been specified.
6. Regulation 238 above also applies to committees.

## 5.6 Motions for Voting of funds by Councillors

### (Supplementary Provision – City of Ryde)

Motions from Councillors for the expenditure of funds on works and/or services other than those already provided for in the Budget must identify the source of funding for the expenditure the subject of the motion. If the motion does not identify a funding source, the meeting will determine that the motion be deferred, pending a report from the General Manager on the availability of funds for implementing the motion if adopted.

## 5.7 Motions for on-site inspections

### (Supplementary Provision – City of Ryde)

Whenever a motion is carried to conduct an on-site inspection, wherever practicable, the time and date of the on-site inspection will be determined at the Council or Standing Committee meeting approving the inspection. Where the time and date is not set at the meeting, the time and date shall be set by the Mayor and General Manager.

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 meeting without a specific resolution to that effect being first carried by the Council.

## 5.8 Motions Without Notice (Motions of Urgency)

### (Supplementary Provision – City of Ryde )

A Councillor may move a motion without notice at a meeting of Council, but such motion will only be acceptable if the Chairperson considers and rules that the matters raised in the motion are of great urgency. If the Chairperson so rules, then the motion can be seconded and voted on for the Council Meeting to determine if it is allowed as a Matter of Urgency.

However, if the Chairperson rules that the motion raises issues that are not of great urgency, the motion cannot be considered at the meeting. Should the Chairperson rule that the matter raised in the motion is not of great urgency, the Councillor raising the motion should submit the motion in writing to the General Manager for inclusion in the business paper for a subsequent Council meeting as a Notice of Motion.

### (Supplementary Provision – City of Ryde)

#### Guidance from the Division of Local Government (13 March 2012)

The Chairperson must determine whether the matters raised in the motion are of great urgency. This is a matter solely for the chairperson and is not open to challenge via a Motion of Dissent as provided for in Clause 5.9.3. This Clause is limited to challenging a ruling of the chairperson on a point of order. The determination as to "urgency" in Clause 5.8 is not a ruling on a point of order by the chairperson referred to in Clause 5.9.3. The term "urgency" is properly not defined for the reason that it is a matter for the chairperson to make that determination depending on the particular circumstances of every motion. To do so would unduly limit the chairperson's discretion.

## 5.9 Procedural Motions

### 5.9.1 General Procedural Motions

#### (Supplementary Provision – City of Ryde)

A procedural motion is a motion that refers to the conduct of a meeting, such as a Point of Order. In general, a procedural motion requires a seconder, unless stated to the contrary in the Code of Meeting Practice. There is no debate on procedural motions and procedural motions have precedence over substantive motions.

### 5.9.2 Point of Order

#### (Supplementary Provision – City of Ryde)

A Councillor may draw the attention of the Chairperson to an alleged breach of the Code of Meeting Practice. The Councillor shall draw the attention of the Chairperson by raising a “point of order.” A point of order does not require a seconder.

A point of order must be taken immediately it is raised. The Chairperson must suspend business before the meeting and permit the Councillor raising the point of order to state the meeting procedure(s) he/she believes have been infringed. The Chairperson will then rule on the point of order – either upholding it or overruling it. Further information on points of order can be found in Appendix “C”.

### 5.9.3 Motions of dissent

#### (Regulation - Clause: 248)

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

#### PRACTICE

1. A motion of dissent shall not be debated until it has been seconded.
2. The Chairperson shall not be bound to leave the Chair during debate on a Motion of Dissent.
3. A Councillor upon moving a Motion of Dissent from the ruling of the Chairperson at a Council meeting shall be given the opportunity to explain the reason for the motion.
4. The Chairperson may reply to the Motion of Dissent and there shall be no further debate before the motion is put to the vote.
5. If a Motion of Dissent is carried, the ruling of the Chairperson is overturned; if it is not, the ruling stands and the business shall proceed as if the Motion had not been presented.
6. The Mayor or Chairperson, if the situation arises, shall have a casting vote on any motion of dissent.

## PART 6 – RESCISSION MOTIONS

### 6.1 Rescinding or altering resolutions

**(Local Government Act - Section: 372)**

- (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, or 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 negated by a council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with the council's code of meeting practice.
- (4) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the council, must be signed by 3 Councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- (5) If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within 3 months. This subsection 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 council.
- (7) The provisions of this section concerning negated motions do not apply to the motions of adjournment.

**(Supplementary Provision – City of Ryde)**

**Legal Advice**

Once a Notice to alter or rescind a resolution has been signed by three Councillors and given to the General Manager in accordance with section 360 of the Local Government Act and this Code, the purported withdrawal of support for the motion by one or more of the signatories to the motion will not invalidate the motion. The General Manager is therefore obliged to include the motion on the Agenda for the next Council Meeting (unless the motion is, or the implementation of the motion would be, unlawful). If the motion does not have support at the meeting, it may lapse for the want of a mover or seconder, or be defeated in a vote.

**(Supplementary Provision – City of Ryde)****Rescission Motions** – Resolution of Council 27 March 2012

That in the interests of full transparency, the Councillors' Information Bulletin list any Rescission Motion received by Council staff that has not been subsequently withdrawn or dealt with at a Council Meeting, providing the following information:

- (a) details of the original resolution proposed to be rescinded;
- (b) the date and time of receipt of the Rescission Motion;
- (c) the names of the signatories of the Rescission Motion; and
- (d) the status of any staff action that is affected or potentially affected by the Rescission Motion.

**PRACTICE**

1. A rescission motion shall only prevent a resolution of Council from being effective immediately, if notice is given at the meeting at which the resolution is passed.
2. A rescission motion shall be in writing and shall be signed by three Councillors.
3. Notices of Rescission which attempt to alter or stop some course of action which has been substantially proceeded with shall be ruled out of order: See part 6.2 below.
4. A motion to rescind or alter a resolution of Council cannot be withdrawn once submitted, irrespective if all three Councillor's signatories are withdrawn prior to its consideration at a Council meeting. The motion will remain listed for Council's consideration at its next available Ordinary Council meeting.

## 6.2 Rescission of resolutions granting development consent

### (Supplementary Provision – Case Law)

Under section 83 of the Environmental Planning and Assessment Act 1979 development consent has effect from the date endorsed on the written notification (subject to any appeal action).

In the case of *Townsend v Evans Shire Council* ([2000] NSWLEC 163) it was held that there was no effective development consent until formal notice of a determination was issued to the applicant and that "...it is necessary that the communication of the consent have some formal character as being authenticated on behalf of the council."

Verbal advice from the Mayor or Chairperson at a Council or Standing Committee meeting that the consent had been given was not notice to the applicants so as to "tie the council's hands." In this case, the rescission motion had been lodged with the General Manager before the time required in the Planning Regulations for issuing a notice of determination.

Once the applicant has been formally advised of council's decision, there may be issues of compensation to the applicant if consent is later rescinded.

A Rescission Motion lodged after Development Consent has been issued will be ruled out of order.

## PART 7 – CLOSED PARTS OF MEETINGS

### 7.1 Closure of meetings to the public

**(Local Government Act - Section: 10A)**

- (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 sub-clause (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.
  - (i) alleged contraventions of any code of conduct requirements applicable under Section 440 – Code of Conduct.
  
- (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 the council may allow members of the public to make representations to or at the meeting, before any part of the meeting is closed to the public, as to whether that particular part of the meeting should be closed.

The following table summarises the provisions of 10A and 10B. Council may go into closed session 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
2(i) alleged contraventions of any Code of Conduct requirements applicable under Section 440 – Code of Conduct	
(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



## 7.2 Limitation on closure of meetings to the public

### (Local Government Act - Section: 10B)

- (1) A meeting is not to be 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 mis-interpret 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.
  
- (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 practices issued by the Director-General.

**PRACTICE**

1. After a motion to close part of a meeting to the public has been moved and seconded, the Chairperson at his or her discretion will ask the General Manager if there are any written representations from the public on the proposed closure.
2. The General Manager will either; read out the representations; or summarise their collective content (depending on the number of submissions); or state that no written representations have been received.
3. An invitation will then be made to persons present at the meeting to make verbal representations on the proposal for closure, and the “fixed period” referred to in clause 252 of the Regulation shall be the period between when the “closure motion” is moved and seconded and when the Chairperson declares the result of the voting on the motion, however it would be acceptable for a recommittal motion to be moved up until the time the doors of the Chamber are locked to exclude the press and the public gallery.
4. In respect of sub-clause 10A (2)(d) the Department of Local Government has advised that it considers decisions involving tenders and the setting of reserve prices are recognised categories of confidential information, the disclosure of which could damage Council's competitive position. Therefore these matters can be considered in closed meetings in accordance with clause 10A (2) (d) of the Act.

### 7.3 Closure of meeting to public in urgent cases – Matters of Urgency

**(Local Government Act - Section: 10C)**

Part of a meeting of council, or 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.

### 7.4 Grounds for closure to be specified

**(Local Government Act - Section: 10D)**

- (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.

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

### (Regulation - Clause: 253)

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.

### PRACTICE

As soon as Council moves out of closed session the resolutions passed during the closed session must be confirmed and adopted by the meeting in open session.

## 7.6 Representations by members of the public - closure of part of meeting

### (Regulation - Clause: 252)

- (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.

### (Regulation - Clause: 264)

- (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.

### (Supplementary Provision – City of Ryde)

Members of the public who request 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 prior to a resolution to close the meeting to public and press.

## 7.7 Disclosure and misuse of information

### (Local Government Act - Section: 664)

- (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 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 subsection (1) (a)-(e), or
  - (c) disclosure made in circumstances prescribed by the regulations, or
  - (d) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with section 12.
  
- (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.

### (Supplementary Provision – Code of Conduct)

A breach of section 664 of the Act shall be treated as a breach of both the Act and Council's Code of Conduct and will be investigated in accordance with the provisions of the Code of Conduct.

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

**(Regulation - Clause: 412)**

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.

## 7.8 Access to information and records by Councillors

**(Supplementary Provision – City of Ryde)**

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.

Councillors shall have access to council documents in accordance with the provisions of the Government Information (Public Access) 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.

## 7.9 Handling and Circulation of Confidential Information

**(Supplementary Provision – City of Ryde)**

Councillors shall primarily have access to confidential information through BoardVantage (Council's online document system), noting that at times hard copies may be distributed to Councillors at the meeting.

## PART 8 – ORDER AT MEETINGS

### 8.1 Questions of order

**(Regulation - Clause: 255)**

- (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.

**(Supplementary Provision –Meetings Practice Note)**

Clause 256(2) of the Regulation authorises the chairperson to require a Councillor to take back comments or to apologise without reservation for an act of disorder.

#### PRACTICE

1. The Chairperson may name any Councillor who is guilty of:
  - (a) interrupting a speaker except upon a point of order;
  - (b) interrupting the Chairperson except on a point of dissent;
  - (c) refusing to accept a ruling from the Chairperson.
2. Any Councillor who is named by the Chairperson three times in one meeting for a disorder referred to in (a) - (c) above and fails to apologise for the disorder if requested to by the chairperson may be expelled from the meeting by resolution of Council in accordance with clauses 255 and 256 of the Regulation.
3. Acts of disorder are explained at Clause 256 of the Regulation below.
4. 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.

## 8.2 Acts of disorder

### (Regulation - Clause: 256)

- (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 sub-clause (1) (a) or (b); or
  - (b) to withdraw a motion or an amendment referred to in sub-clause (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 sub-clause (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 sub-clause (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.

### (Supplementary Provision –Meetings Practice Note)

Acts of disorder committed by Councillors during council or committee meetings may amount to misbehaviour, leading to censure by the council or suspension in accordance with the Code of Conduct.

If a Councillor does not act as requested by the Chairperson, a Councillor may be expelled from the meeting.

This can be done by the council, committee, chairperson (if authorised to do so by a resolution of the meeting) or by a person presiding at the meeting. However, council must have resolved to authorise the person presiding to exercise the power of expulsion: this is in accordance with section 10(2) of the Local Government Act.

### (Supplementary Provision –City of Ryde)

The person presiding at a meeting of Council does not have the power of expulsion pursuant to Section 10(2) of the Local Government Act and would require a resolution of Council to exercise the power of expulsion.

**PRACTICE**

1. A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a Committee of the Council reads at length from any correspondence, report or other document, without the leave of Council.
2. The expulsion of a Councillor shall be recorded in the minutes of the meeting.
3. A Councillor expelled from a meeting in accordance with Clause 256 (3) of the Regulation shall leave the Chamber for the duration of the meeting.
4. Further to Clause 256 (1) of the Regulation, a Councillor commits an act of disorder if the Councillor insults or makes personal reflections on or imputes improper motives to any Officer of Council.
5. Councillors, Council Officers and members of the gallery must ensure that their mobile phones or any other recording devices are switched off during meetings of Council and Standing Committees. Failure to do so or an attempt to use a mobile phone during a meeting of Council or Standing Committee will be deemed to be an act of disorder and render the offender liable to expulsion from the meeting. .

**8.3 Disorder in committee meetings****(Regulation - Clause: 270)**

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

**(Supplementary Provision –City of Ryde)**

The person presiding at a Committee Meeting does not have the power of expulsion pursuant to Section 10(2) of the Local Government Act and would require a resolution of the Committee to exercise the power of expulsion.

**8.4 How disorder at a meeting may be dealt with****(Regulation - Clause: 257)**

- (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 sub-clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors.
- (2) A member of the public may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a council for engaging in or having engaged in disorderly conduct at the meeting.



**(Supplementary Provision –City of Ryde)**

- (1) 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.
- (2) 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.
- (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.

**PRACTICE**

1. Council has a duty of care to provide a workplace in which all staff are treated with respect and which is free from bullying, harassment, discrimination and other intimidating behaviours.
2. Where the General Manager or their delegate determines that a staff member present at a Council or Committee Meeting is not being treated appropriately they may request that the offending comment be withdrawn and/or an apology given.
3. If the comment is not withdrawn and/or the apology given, the General Manager or their delegate may, in accordance with clause 2.1.1, withdraw staff from the meeting.

## 8.5 Power to remove persons from meeting after expulsion resolution

**(Regulation - Clause: 258)**

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.

**PRACTICE**

1. The power to remove a Councillor is confined to those circumstances that constitute a failure to comply with a requirement under Clause 256 of the Regulation and this Code.
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.
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.

## 8.6 Certain persons may be expelled from council committee meetings

### **(Regulation - Clause: 271)**

- (1) If a meeting or part of a meeting of a committee of a council is closed to the public in accordance with section 10(A) 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.

### **(Supplementary Provision –City of Ryde)**

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.

## 8.7 Conduct at Meetings

### **(Supplementary Provision – Code of Conduct)**

Council's Code of Conduct also provides standards for appropriate behaviour and sanctions for misbehaviour at meetings. Councillors should also be aware of the provisions of the Code of Conduct in regard to these matters.

## PART 9 – COMMITTEES, THEIR MEMBERS AND FUNCTIONS

### 9.1 Committee of the Whole

**(Local Government Act - Section: 373)**

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

**(Regulation - Clause: 259)**

- (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.

### 9.2 Council may appoint committees

**(Regulation - Clause: 260)**

- (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.

#### PRACTICE

1. Committees established under this Clause shall be known as "Standing Committees" and comprise Elected Members only.
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).
3. Standing Committees detailed above have such authority to make binding resolutions on all relevant matters in accordance with their charter and in accordance with their delegation.
4. The Delegation for Standing Committees is set out in Appendix F of this Code of Meeting Practice.

## 9.3 Functions of committees

### (Regulation - Clause: 261)

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.

### (Supplementary Provision – City of Ryde)

The charter, functions, powers and meeting times of current committees are set out in Annexure “F”.

The General Purposes Committee makes recommendations to Council on all matters  
The charter, functions, powers and meeting times the Civic Precinct Committee are set out in Annexure “F”.

The Works and Community Committee and Planning and Environment Committee as set out in Annexure F may operate with its delegates powers subject to the Act, the Regulations 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"> <li>No exceptions.</li> </ul>
2 No dissenting votes occurring	<ul style="list-style-type: none"> <li>Where every dissenting Councillor present is agreeable to the decision proceeding with their names being recorded against the decision.</li> </ul>
3 No substantive changes are made to the published recommendation.	<ul style="list-style-type: none"> <li>Where any inconsequential changes are made such as for clarification purposes, to correct typographical, grammatical or similar errors, or to extend thanks/congratulations.</li> </ul>
4 No Councillor has requested the General Manager in writing by the commencement of the meeting to refer the matter to the next Council Meeting.	<ul style="list-style-type: none"> <li>No exceptions</li> </ul>

### PRACTICE

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.

## 9.4 Notice of committees meetings

### (Regulation - Clause: 262)

- (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.

### (Supplementary Provision – City of Ryde)

- (1) 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.
- (2) The provisions of this Code, except for Clause 240(1) of the Regulation, apply to the business papers of committee meetings in the same manner as they apply to the business papers of meetings of the council as detailed in Clause 1.2 of this Code of Meeting Practice.

## 9.5 Procedure in committees

### (Regulation - Clause: 265)

- (1) Subject to sub-clause (3), each committee of a council may regulate its own procedure.
- (2) Without limiting sub-clause (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 is to be by open means (such as on the voices or by show of hands).

### PRACTICE

The chairperson shall not have a casting vote on any Standing Committee where the membership is fewer than all the Councillors.

There is no requirement to stand when speaking during any Standing Committee.

## 9.6 Chairperson and deputy chairperson of committees

### (Regulation - Clause: 267)

- (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.

### PRACTICE

1. The Mayor shall be entitled to attend and vote at any Committee meeting of Council. However, if a Chairperson has been elected or appointed to a particular Committee by Council, the Mayor shall not have the right to preside at a meeting of that Committee unless the Chairperson or Deputy Chairperson is unable or unwilling to preside and then only if the Mayor has been elected by the members of the Committee as the Committee's Acting Chairperson.
2. If the Mayor enters the meeting room during a committee meeting it will be recorded in the minutes whilst ever he/she remains in the meeting room. The meeting area includes the public gallery seating area.
3. The Chairpersons, and Deputy Chairpersons, of Standing Committees shall be appointed by the Committee at the first Committee meeting following the Mayoral Election and determination of Standing Committee Membership..
4. The role of the Chairperson is outlined in Appendix "A".
5. The Chairperson of the Works and Community Committee and/or the Planning and Environment Committee does not have a casting vote.
6. The Chairperson of any Committee of which all Councillors are members has the right to a casting vote.

## 9.7 Absence from committee meetings

### (Regulation - Clause: 268)

- (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) Sub-clause (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 1st July and ending the following June. See the Dictionary to the Act.

## 9.8 Non-members entitled to attend committee meetings

### (Regulation - Clause: 263)

- (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.

## 9.9 Reports of committees

### (Regulation - Clause: 269)

- (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 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.

**PRACTICE**

1. The City of Ryde provides delegations to Standing Committees as set out in Appendix F of this Code of Meeting Practice.
2. Reports from Committees in accordance with their appropriate exercise of their delegation will be provided to the next practicable Council Meeting for determination.

**9.10 Committee minutes****(Regulation - Clause: 266)**

- (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.

**(Supplementary Provision – City of Ryde)**

All voting of Councillors will be recorded for both Council and Standing Committee meetings.



## PART 10 – AFTER THE MEETING

### 10.1 Acting on Council Decisions

**(Supplementary Provision – Meetings Practice Note)**

The Act requires Councillors as a group to direct and control the Council's affairs, allocate Council's resources, determine Council policies and objectives and monitor Council's performance.

The General Manager is responsible for the efficient and effective operation of Council's organisation, the day-to-day management of the council, employment of council staff and for acting on Council decisions (LGA Sec 335).

**(Supplementary Provision – City of Ryde 11 December 2012)**

The enactment of any resolution of Council will commence no earlier than midday following the day of the meeting, unless otherwise resolved by Council.

### 10.2 Public Availability of Decisions

**(Supplementary Provision – Meetings Practice Note)**

The public has the opportunity to review all Council decisions, even those made at closed meetings, through the inspection of Council's meeting minutes. The right of the public to inspect meeting agendas, business papers and minutes of council and committee meetings, is expressly provided for under section 12 of the Act.

### 10.3 Public Access to correspondence and reports

**(Local Government Act - Section: 11)**

- (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.

## PART 11 – MINUTES

### 11.1 Why and How Should Minutes be Kept?

**(Local Government Act - Section: 375)**

- (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.

#### PRACTICE

1. The provision of Section 375 above shall also apply to Standing Committees.
2. The purpose of the minutes is to record procedural motions and substantive motions arrived at by the meeting. The minutes shall not record things said by way of debate or comment unless Council so resolves.
3. The correctness of the minutes of every proceeding ordinary, extraordinary or special meeting, not previously confirmed shall be taken into consideration as the first business at every ordinary meeting of Council, in order that such minutes can be confirmed.
4. A motion or discussion shall not be in order with respect to such minutes except with regard to their accuracy as a true record of proceedings.
5. In the absence of any formal direction from the Council, the structure and presentation of the minutes shall be at the General Manager's discretion.

### 11.2 What matters must be included in the minutes of council meetings

**(Regulation - Clause: 254)**

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.

#### PRACTICE

1. 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.
2. Only in exceptional circumstances may Council Meeting Minutes be confirmed at an extraordinary or special meeting of the Council. Generally, Council Meeting Minutes will be referred to an Ordinary Council Meeting for confirmation.

## 11.3 Minutes for Closed Meetings

### **(Supplementary Provision – Meetings Practice Note)**

In accordance with Clause 254 of the Regulation minutes must include the details of all motions and amendments; the names of their movers and seconders; and whether the motions and amendments are passed or lost.

Any person is entitled to inspect minutes containing resolutions or recommendations from the closed parts of meetings. While council cannot keep its decisions confidential, it is possible to discuss matters in the minutes in such a way as not to reveal confidential details.

## 11.4 Minutes from Committee Meetings

### **(Regulation - Clause: 266)**

- (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 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.

## 11.5 Inspection of the minutes of a council or committee

### **(Regulation - Clause: 272)**

- (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.

## 11.6 Confirmation of Minutes

### **(Local Government Act - Section: 703)**

Every entry in the minutes of the business transacted at a meeting of the council and purporting to be signed by the person presiding at a subsequent meeting of the council is, until the contrary is proved, evidence:

- (a) that the business as recorded in the minutes was transacted at the meeting; and
- (b) that the meeting was duly convened and held.

### **(Supplementary Provision – City of Ryde)**

The minutes of a meeting are “unconfirmed” until they are submitted for confirmation at a subsequent meeting. The minutes can be amended in terms of their accuracy by Council resolution at the meeting prior to their confirmation.

## PART 12 – CODE OF MEETING PRACTICE

### 12.1 Conduct of meetings of council and committees

**(Local Government Act - Section: 360)**

- (1) The regulations may make provision with respect to the conduct of meetings of councils and committees of council of which all the members are Councillors.
- (2) A council may adopt a code of meeting practice that incorporates the regulations made for the purposes of this section and supplements those regulations with provisions that are not inconsistent with them.
- (3) A council and a committee of the council of which all the members are Councillors must conduct its meetings in accordance with the code of meeting practice adopted by it.

### 12.2 Preparation, public notice and exhibition of draft code

**(Local Government Act - Section: 361)**

- (1) Before adopting a code of meeting practice, a council must prepare a draft code.
- (2) The council must give public notice of the draft code after it is prepared.
- (3) The period of public exhibition must not be less than 28 days.
- (4) The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to the council.
- (5) The council must publicly exhibit the draft code in accordance with its notice.

### 12.3 Adoption of draft code

**(Local Government Act - Section: 362)**

- (1) After considering all submissions received by it concerning the draft code, the council may decide:
  - (a) to amend those provisions of its draft code that supplement the regulations made for the purposes of section 360; or
  - (b) to adopt the draft code as its code of meeting practice.
- (2) If the council decides to amend its draft code, it may publicly exhibit the amended draft in accordance with this Division or, if the council is of the opinion that the amendments are not substantial, it may adopt the amended draft code without public exhibition as its code of meeting practice.

**(Supplementary Provision – City of Ryde)**

- (a) The Council must consider all submissions received.
- (b) It is a matter for Council to determine whether any amendments are considered to be substantial in terms of Clause 362 (2) of the Act, and therefore not required to be publicly exhibited.

**12.4 Amendment of the code****(Local Government Act - Section: 363)**

A council may amend a code adopted under this Part by means only of a code so adopted.

**PRACTICE**

Changes that are made to Act and Regulation will automatically be incorporated into this Code and such changes will not be advertised or reported to Council.

Any further code adopted by Council must be prepared, notified, exhibited and adopted in accordance with the provisions of Sections 360, 361, 362 and 364 of the Act.

**12.5 Public availability of the code****(Local Government Act - Section: 364)**

- (1) The code of meeting practice adopted under this division by a council must be available for public inspection free of charge at the office of the council during ordinary office hours.
- (2) Copies of the code must be available free of charge or, if the council determines, on payment of approved fee.

## PART 13 – COUNCIL SEAL

### (Regulation - Clause: 400)

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

### PRACTICE

The General Manager's Office shall have custody of Council's Common Seal in accordance with Clause 400 (1) of the Regulation.

A council seal is like the signature of the council. It signifies Council's approval to the content of the document to which it is affixed.

Clause 400 (4) of the Regulation requires a council resolution before each use of the seal. The resolution must specifically refer to the document to be sealed.

## PART 14 – COUNCIL WORKSHOPS

### (Supplementary Provision – Meetings Practice Note)

“Workshop” shall include a briefing session, an information session, and/or a discussion group.

- (1) The council may hold workshops under its general powers as a body corporate. Workshops and briefing sessions are not meetings of the council or its formal standing committees, under the Code of Meeting Practice. A Workshop may involve Councillors, staff and invited participants.
- (2) Workshops are informal and are intended and used to provide useful background information to Councillors on issues, to develop Councillor knowledge and expertise and to assist in their role as public officials,
- (3) No Council decisions are to be made at workshops.
- (4) Workshops do not have any decision making authority or powers and shall not be used for transaction of council business or detailed or advanced discussions where agreement is reached and/or a (de-facto) council decision is made. Any detailed discussion or exchange of views on an issue, and any policy decision from the options, shall be left to the open forum of a formal council or committee meeting.
- (5) All Councillors are entitled to attend workshops.

### Continued: (Supplementary Provision – City of Ryde)

- (6) All Councillors are invited to and expected to attend workshops.
- (7) Workshops shall be entered into the Councillors Calendar as soon as a date for such has been determined.
- (8)
  - (a) Matters for discussions at workshops will be included in the Councillor’s Information Bulletin, but shall not be deemed an “Agenda” under this Code.
  - (b) Any information or briefing papers for a workshop shall be given to all Councillors. Any information given to a particular Councillor for a workshop in the performing of their civic duties, must also be available to any other Councillor who requests it.
  - (c) Any document produced in relation to a workshop is a document of the council. This means that such documents could be inspected and copied in accordance with the provisions of the Government Information (Public Access) Act, subject to any exemptions applying under either Act or copyright restrictions.
- (9) Workshop briefing papers shall contain information and options but no recommendations, and no recommendations are to be put to nor sought from, the Councillors or other workshop participants in the course of the workshop. General consensus on any options may be expressed by the workshop participants.
- (10) The meeting procedures in the Act and the Regulation and in this Code do not apply to workshops held by the Council under this clause;
  - (a) which apply to meetings of the council and its formal committees comprising of all Councillors and only Councillors, and

- (b) in respect of;
  - i. the attendance entitlements or requirements of Councillors,
  - ii. attendance entitlements of the public
  
- (11) Pecuniary and conflicts of interest do apply to workshops conducted by the Council under this clause.
  
- (12) Minutes and recordings of the meeting will not be taken but a formal record of the workshop will be kept by Council staff detailing:-
  - (i) Date
  - (ii) Subject
  - (iii) Those present
  - (iv) Purpose of the workshop



## PART 15 – MINISTER TO CONVENE MEETINGS

**(Regulation - Clause: 234)**

- (1) Whenever an area is constituted or reconstituted, the Minister is required:
  - (a) to convene the first meeting of the council of the area; and
  - (b) to nominate the business to be transacted at the meeting; and
  - (c) to give the Councillors notice of the meeting.
  
- (2) If there is no quorum at that meeting, the Minister may convene meetings in the same manner until a quorum is present.
  
- (3) The council must transact the business nominated by the Minister for a meeting convened under this clause

## APPENDIX "A" The Role of Chairperson

1. The Chairperson shall insist upon the proper conduct of debate.
2. The Chairperson should be impartial and consistent in rulings on all occasions regardless of their personal views and beliefs on the subject being discussed whether or not they have made their view known.
3. The Chairperson shall receive and put to the meeting any motion which is brought before the meeting in accordance with the Act, Regulation and Code of Meeting Practice.
4. The Chairperson should not permit discussion unless there is a motion before the meeting.
5. The Chairperson shall have no power to adjourn the meeting of his or her own accord except, but not limiting the provisions of the Act or the regulation, the Chair can adjourn when the meeting lacks a quorum and when disorder arises.
6. The Chairperson shall have the right to rule out of order motions that do not relate to the business before Council and motions that are "ultra vires".
7. The Chairperson may refuse to put motions and amendments that are not clear.
8. The Chairperson has the authority to advise and counsel the meeting.
9. The Chairperson shall preserve order and endeavour to prevent interference with speakers by private talk or heckling remarks, offensive statements and the imputation of improper motives. In the event of such occurrences, the Chairperson may call upon speakers to withdraw and apologise. (Refer to Clause 255 of the Regulation – Questions of Order)
10. The Chairperson of Council Meeting or Committees of which all Councillors are members shall have the right to exercise a casting vote. The Chairperson of the Planning and Environment Committee or Works and Community Committee does not have the right to exercise a casting vote.

## APPENDIX "B" Motions, Amendments and Foreshadowed Motions

### Motions

1. A motion is a proposal, moved by one Councillor and seconded by another calling for a specific action to be taken or a decision to be made on the particular matter before the Committee or Council.
2. If that motion is passed it becomes a resolution of the Council or the Committee (within the Committee's delegation).  
  
The mover of a motion may be given the opportunity to explain the motion before a seconder is called for, if considered necessary by the Chairperson.
3. Once a motion is moved and seconded the meeting can then try and reach a decision by considering the specific proposal with speakers supporting it, opposing it, or suggesting changes to it.
4. If there is no objection to a motion before Council or Committee, there shall be no right of reply, and the Chair shall put the motion.
5. Where there is a motion and an amendment, following debate on the amendment and then the motion, the mover of the motion has a right of reply prior to voting on the amendment taking place.
6. A motion should be very specific in its intention, and must be capable of being implemented.
7. If possible, a motion should be qualified by referring to a timetable, financial implications, who is to take the necessary action, etc.
8. The motion should be simple and easy to understand so that there is no doubt about its meaning - it should be well structured and if it involves a number of different aspects then there should be different parts to the motion.
9. A Councillor seconding the motion is in effect saying "I support this proposal." If no person present is prepared to second the motion it then lapses and should not be discussed further.
10. When a motion is complex in its wording and intent, to assist other Councillors of the Committee/Council a Councillor shall submit the motion in writing so that it can be circulated to all members present and the minute taker either electronically or in hard copy format. This will allow the motion/amendment to be displayed accurately on the visual screens at the time that the motion or amendment is being discussed. This will remove any doubt in the minds of Councillors as to what exactly is being moved. Likewise, the Chairperson should ensure that any motion/amendment is clearly understood by all Councillors present prior to voting
11. A motion should start with the word "THAT", for example "THAT the road be closed."

12. Motions should be written in a positive sense so that a “yes” vote indicates support for the action, and a “no” vote indicates that no action should be taken.
13. The mover of the motion has the right to speak first, and a general “right of reply” at the end of the debate. No new information or material should be argued during the “right of reply.”
14. The seconder of the motion speaks after the mover, but may choose to hold over their speaking rights until later in the debate.
15. At the end of the debate, the Chairperson puts the motion to the meeting for voting by Councillors.

### **Amendments**

1. An Amendment to a motion requires a mover and a seconder to put it forward.
2. The Amendment must be dealt with before voting on the main motion. Debate is allowed only in relation to the amendment and not the main motion – which is suspended while the amendment is considered.
3. If the Amendment is passed, it becomes the motion and this new motion can be debated. If the Amendment is not supported, the main motion stays in its original form.
4. There should only be one Amendment to a Motion before Council at any time. If several amendments are proposed, each should be moved, seconded, debated and voted upon before the next
5. Amendments may be in the form of additional words to a motion and/or the removal of words. Any such Amendment to a Motion must not alter the Motion to the extent that it effectively reverses the Motion. In any case an Amendment to a Motion will need to be made with the concurrence of the mover and seconder of the Motion.

### **Foreshadowed Motions/Amendments**

1. It is possible to advise the Council of an intention of a foreshadowed Motion/Amendment that relates to the business currently before Council.
2. The Chairperson can not accept the foreshadowed Motion/Amendment until the current Motion/Amendment has been determined.

## APPENDIX "C" Calling a Point of Order

1. A Point of Order may be called in the following circumstances:
  - (a) A matter is raised that does not relate to the subject being discussed.
  - (b) There is no quorum present in the Council Chamber.
  - (c) There has been a failure to comply with some rule, regulation, standing order, policy or accepted rules of debate.
  - (d) A Councillor has used objectionable, insulting, offensive, abusive language or defamatory insinuations about a person's motives or conduct.
  - (e) A speaker has exceeded the time limit for speeches.
  - (f) An amendment under discussion has not been seconded.
  - (g) A matter is raised which is outside the powers of the Council.
  
2. The Chairperson may rule a Councillor out-of-order in two (2) ways - generally upon a ruling being given by the Chairperson after another Councillor has made a point of order, or by the Chairperson on his or her own initiative making the ruling.
  
3. When a Councillor raises a point of order, the person speaking must stop and resume his/her seat until the point has been dealt with. The Councillor who raises the point of order shall where possible refer to the specific section of the Code of Meeting Practice for example:
 

*“Under section 8.4 of the Code of Meeting Practice....”*
  
4. No other Councillor may speak on the Point of Order.
  
5. Chairperson will then rule on the Point of Order, either by agreeing that the speaker is out-of-order or disagreeing and allowing the speaker to continue.
  
6. If there is an objection to the Chairperson's ruling, a Councillor may move a Motion of Dissent. (Refer Clause 248 of the Regulation)
  
7. A Point of Order must not be taken for the purpose of contradicting statements made by another Councillor or providing a personal explanation. It must only be concerned with the conduct of the meeting. An explanation or contradiction is not a Point of Order.

## APPENDIX “D” PRACTICE for Public Addresses

**Aim** - To assist the decision-making process, Council has provided the opportunity to members of the public to address Council and Committee meetings

### Who can speak at a Meeting?

Anyone can speak at a Meeting! You may speak if you are a resident or ratepayer, 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 already listed and considered by the General Purposes Committee, Works and Community Committee and Planning and Environment Works and Community Committee and Planning and Environment Committee; and have then been referred to Council for determination under delegated authority.

You may not make insulting or defamatory statements, and you should take care when discussing other people’s personal information. Also, a member of the public may be expelled from a meeting for engaging in disorderly conduct. You are reminded that some meetings are webcast.

### Are there any rules for speaking at the meeting?

#### *Council Meetings:*

Time is allocated at the beginning of the meeting for speakers.

Each speaker has 3 minutes – there is a warning bell after 2 minutes. No extensions of time are given and there is no question and answer period.

#### *Committee Meetings:*

A maximum of 5 minutes will be allowed per person or a maximum of 15 minutes for a group. Councillors may ask speakers questions. It should be noted that speakers are under no obligation to answer any question put to them.

#### *General Information*

You are requested to register your desire to speak at a meeting by 12 noon on the day of the meeting.

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 except at Planning and Environment Committee Meetings where objectors speak first followed by the applicant or their representative.

**IMPORTANT NOTE:** The Chairperson may vary these practices, if such action will promote equity or will facilitate the conduct of the meeting.

**Need more information?** Any questions, please phone Governance on 9952 8200.

## APPENDIX “E” PRACTICE on the Conduct of On-Site Inspections

### Aim

For Councillors to familiarise themselves with the site and area to gain an understanding of the impact of any proposal.

### Decisions to have an on-site inspection

When a decision to hold an inspection is made, it is important that a clear indication be given as to who will be notified of the inspection.

### Conduct of inspections

The purpose of the inspection is for the gathering of facts and for Councillors to gain an appreciation and a full understanding of the onsite circumstances of a proposal. Any parties present are expected to contribute to this purpose. A decision on the proposal will not be made at the inspection.

Key points relating to the conduct of inspections are:

- The Chairperson at the inspection will have absolute authority.
- Applicants and objectors may be asked to contribute by assisting with advice and explanation of their various points of view and to answer questions from Councillors and Council officers.
- Objectors/applicants are not to debate issues with each other, Councillors or Council officers.
- Applicants and objectors will have the right to apply to address Council or Committee meeting when the matter is under consideration.

Inspections shall not be used for the transaction of council business or detailed or advanced discussions where agreement is reached and/or a (de-facto) council decision is made. Any detailed discussion or exchange of views on an issue, and any policy decision from the options, shall be left to the open forum of a formal council or committee meeting.

### Chairperson of inspection

The Chairperson of the inspection will be either the Mayor, Chairperson/Deputy Chairperson of the relevant Committee present at the inspection.

### Agenda for conduct of onsite inspections

- Council Officer introduces Chairperson and Councillors to those present.
- Chairperson explains
  - purpose of inspection
  - procedures and conduct of inspection including rights and obligations of the various parties present
  - Council Officer outlines the proposal including reference to plans
- If appropriate, applicants and objectors will be asked to put their views to the Councillors with the purpose of contributing to the understanding of the Councillors present.

## APPENDIX “F” Meeting Times, Charters, Functions and Powers of Committees

The following Charters, functions and powers are provided under the Code of Meeting Practice and in accordance with Section 377 of the Local Government – General Power of the Council to delegate.

### General Purposes Committee

Membership:	All Councillors
Quorum:	Seven
Meeting date, place and time:	Meetings to be held as required on Tuesdays in Committee Rooms 2 and 3 Meetings scheduled to commence at 7.30pm.
Casting vote:	Chairperson
Delegation:	All matters considered by the General Purposes Committee will be referred to Council for determination.
Charter	To address and consider agenda items relating to the business of Council in which there is a public interest (as determined by the General Manager) and reported to the General Purposes Committee and make recommendations to Council for its determination.
Functions and Powers	To consider items of public interest and make recommendations to Council.

### Other Matters (outside Terms of Reference)

Public Participation:	Public Participation will be in accordance with Council’s – Practice for Public Addresses, in the Code of Meeting Practice. (this allows a maximum of 5 minutes per person, 15 minutes for a group. It also allows Councillors to ask questions of the speaker).
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#### Restrictions

Members of the public will not be able to speak at a Council meeting where matters have already been listed and considered at the General Purposes Committee and are being referred to the Council meeting for determination.

Advertising	Meetings will be advertised on Council’s website and in the Mayor’s Column.
Minutes	Minutes of meetings detailing recommendations for Council’s consideration, will be published on Council’s website.
Recording	The meetings will be audio recorded for the purposes of minute taking. They will also be webcast.



## Planning and Environment Committee

Quorum:	A committee comprising less than the full council shall be three (3)
Meeting dates, place and 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; Committee rooms 2 and 3 Meetings scheduled to commence at 5.00pm.
Casting Vote:	Nil
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.  The Planning and Environment Committee does not have the delegated authority to change a priority of works previously adopted by Council or to approve budgets or works where budget allocations are required.
Functions and Powers:	<p><i>Environmental Planning</i></p> <p>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.</p> <p><i>Development Control</i></p> <p>Consider major development projects and local development applications not otherwise determined and determine the applications. Approve the issue of notices and orders.</p> <p><i>Environment Protection</i></p> <p>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.</p> <p><i>Court Action</i></p> <p>Approve the institution of legal proceedings, review the progress of matters before the Courts and assess the implications of decisions from the Court.</p> <p><i>Health Services</i></p> <p>Address 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.</p>

## Works and Community Committee

Quorum:	A committee comprising less than the full council shall be three (3)
Meeting dates, place and 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; Committee room 1 Meetings scheduled to commence at 5.00pm.
Casting Vote:	Nil
Charter:	To adopt and monitor in accordance with established priorities and budgets the cost effective implementation of: <ol style="list-style-type: none"> <li>1. policies and operating plans for infrastructure development and maintenance so that facilities and services are provided to satisfy the needs of the community</li> <li>2. programs and services to promote the physical, social, cultural, recreational, spiritual and intellectual well being of individuals and the community.</li> </ol>

The Works and Community Committee does not have the delegated authority to change a priority of works previously adopted by Council or to approve budgets or works where budget allocations are required.

### Functions and Powers:

#### *Research*

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.

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