

1. AMENDED CODE OF MEETING PRACTICE

Introduction

This report is presented to Council to consider the correct Amended Code of Meeting Practice.

The attachment to Item 7 of the General Manager's Report is the current Code of Meeting Practice and not the proposed amended Code that has been out on public exhibition.

Council should consider this attachment when adopting the Code of Meeting Practice.

Jane Redden
General Manager

..... Mayor



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CODE OF MEETING PRACTICE

(Adopted By Council 19 February 2013, Resolution No 2013/25)
(Amended By Council 12 November 2014, Resolution No 2014/362)
(Amended by Council 9 November 2014, Resolution No 2016/347)
(Amended by Council 8 February 2017, Resolution No 2017/18)

INTRODUCTION

Section 360 (1) of the Local Government Act 1993 states -

(1) “The regulations may make provision with respect to the conduct of meetings of councils and committees of councils 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.”

This Code is made under the Local Government Act 1993 and in accordance with the Local Government (General) Regulation 2005 and Council resolutions.

The object of this Code is to provide for the convening and conduct of meetings of Council and of Committees of Council.

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Part 1 - Preliminary

1. **Name of Regulation**

This regulation is the Local Government (General) Regulation 2005.

2. **Commencement**

This regulation commences on 1 September 2005.

3. **Definitions**

In this Regulation:

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

Chairperson:

(a) in relation to a meeting of a Council – means the person presiding at the meeting as provided by section 369 of the Act, and

(b) in relation to a meeting of a Committee of a Council - means the person presiding at the meeting as provided by clause 267.

Committee, in relation to a Council, means a Committee established under clause 260 or the Council when it has resolved itself into a Committee of the whole.

Section 360(1) of the Local Government Act states that the regulations may make provision with respect to the conduct of meetings of councils and committees of councils of which all the members are councillors.

Councillor includes a member of the governing body of a county Council.

The Act means the *Local Government Act 1993*.

Misbehaviour for the purposes of Clause 25 means any of the following:-

- (a) a contravention by the Councillor of the Act or the regulations
- (b) a failure by the Councillor to comply with an applicable requirement of a code of conduct as required under section 440 (5) of the Act
- (c) an act of disorder committed by the Councillor at a meeting of the Council or a Committee of the Council

but does not include a contravention of the disclosure requirements. (Reg 231)

Part 2 – Convening Of, And Attendance At, Council Meetings

4. Ordinary Meetings Of Council And Committees

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

S. 365

Ordinary meetings of Council will be held on the second Wednesday of each calendar month with the exception of the month of January. Ordinary Meetings will commence at 5:30 pm. Council may alter the time and date of a meeting of Council by resolution at a prior ordinary meeting without notice being given provided the requirements of Clause 241 of the Regulation are complied with.

Ordinary meetings of Council and the Committees of which all Councillors are members, will be held in the Council Chambers, unless the Council or a Committee by resolution decides to meet in another location.

5. Notice of meetings

(1) This clause prescribes the manner in which the requirements outlined in section 9 (1) of the Act are to be complied with.

(2) A notice of a meeting of a Council or of a Committee must be published in a newspaper circulating in the area before the meeting takes place.

(3) The notice must specify the time and place of the meeting.

(4) Notice of more than one meeting may be given in the same notice.

(5) This clause does not apply to an extraordinary meeting of a Council or Committee. (Reg 232)

(6) The General Manager must send to each Councillor, five days prior to each ordinary meeting of Council, a notice specifying the time and place at which the meeting is to be held and the business proposed to be transacted at the meeting.

S. 367 (1) - 3 days
Council Res. - 5 days

(7) Notice of not less than 24 hours must be given of an extraordinary meeting.
a) unless it is an emergency, or
b) where business arises that has a short time frame in which to be actioned and requires an urgent decision of Council.

Council Resolution 2003/356

(8) Council will give notice to the public by way of 2DU, Zoo FM, a local newspaper and a notice at the entrance to the Council offices in Dandaloo Street of the times and places of its meetings of those of its Committees of which all the members are Councillors.

6. What happens when a Quorum is not present

(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. (Reg 233)

(4) The Quorum for a meeting of Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office. **S. 368**

7. Minister to convene meeting in certain cases

(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. (Reg 234)

8. Presence at Council meetings

A Councillor cannot participate in a meeting of a Council unless personally present at the meeting. (Reg 235)

9. Leave Of Absence

(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. (Reg 235A)

Part 3 – Procedure For The Conduct Of Council Meetings

10. Councillor to be elected to preside at certain meetings

(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. (Reg 236).

Note. Section 369 (2) of the Act provides for a Councillor to be elected to chair a meeting of 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. (Reg 236)

(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. (Reg 236)

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

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

(b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random. (Reg 236)

(5) The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson. (Reg 236)

(6) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor (if any) presides at meetings of Council. S. 369 (1)

(7) If the Mayor and Deputy Mayor (if any) are absent, a Councillor elected to chair the meeting by the Councillors present presides at the meeting of Council. S. 369 (2)

11A Ordinary meetings

(a) Ordinary meetings of Council shall be held once a month on the second Wednesday of each month commencing at 5:30 pm and no ordinary meeting will be held in January.

(b) Any change to the meeting day and/or time on a temporary basis shall be at the discretion of the Mayor and will be subject to a minimum of 24 hours notice by way of Zoo FM, 2DU and a notice at the entrance to the Council offices in Dandaloo Street. Council Resolution

(c) Where circumstances permit, notification of change of meeting day and/or time shall be given in the local newspaper. Council Resolution

11B Extraordinary meetings

(1) If the Mayor receives a request in writing signed by at least two Councillors, the Mayor must call an extraordinary meeting of Council to be held as soon as practicable but in any event within 14 days after receipt of the request. S. 366

(2) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency. S. 367

11C Who is entitled to attend meetings

- (a) Everyone is entitled to attend a meeting of Council and those of its Committees of which all the members are Councillors. S. 10 (1) (a)
- (b) A Council must ensure that all meetings of the Council and of such Committees are open to the public. S. 10 (1) (b)
- (1) Council or such a Committee of which all members are Councillors may close to the public only so much of its meeting as comprises the discussion of any of the matters listed below or the receipt or discussion of information so listed: S. 10A (1)
- (a) personnel matters concerning particular individuals (other than Councillors) S. 10A (2)
- (b) the personal hardship of any resident or ratepayer S. 10A (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 S. 10A (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 the Council, or S. 10A (2)
- (iii) reveal a trade secret;
- (e) Information that would, if disclosed, prejudice the maintenance of law S. 10A (2)
- (f) matters affecting the security of the Council, Councillors, Council staff or Council property, or S. 10A (2)
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege [further requirements are included in subsection 10B(2)]. S. 10A (2)
- (h) Information concerning the nature and location of a place or an item of Aboriginal significance on community land.

(2) A Council, or a Committee of the Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public. S. 10A (3)

(3) A Council, or a Committee of a Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed. S. 10A (4)

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

(a) except for so much of the discussion as is necessary to preserve the relevant confidentially, privilege or security, and S. 10 B (1)

(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 public interest.

(5) 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 S. 10 B (2)

(b) are clearly identified in the advice, and

(c) are fully discussed in that advice.

(6) 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 10 A (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)). S. 10 B (3)

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

(a) a person may misinterpret or misunderstand the discussion, or S. 10 B (4)

(b) the discussion of the matter may

(i) cause embarrassment to the Council or Committee concerned, or to Councillors or employees of the Council, or

(ii) cause a loss of confidence in the Council or Committee.

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

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

(a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in section 10A(2) and

(b) the Council or Committee, after considering any representations made under section 10A (4) resolves that further discussion of the matter; S. 10C

(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.

(10) The grounds upon which a meeting is closed to the public must be specified in the decision to close the meeting and recorded in the minutes of the meeting. S. 10D (1)

(11) 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. S. 10D (2)

11D Attendance of General Manager at meetings

(1) The General Manager is entitled to attend, but not to vote at, a meeting of Council or a meeting of a Committee of Council of which all the members are Councillors. S. 376 (1)

(2) The General Manager is entitled to attend a meeting of any other Committee of Council and may, if a member of the Committee, exercise a vote. s. 376 (2)

(3) However, the General Manager may be excluded from a meeting of Council or a Committee, while Council or Committee deals with a matter related to the standard of performance of the General Manager or the terms of employment of the General Manager. s. 376 (3)

12. Chairperson to have precedence

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. (Reg 237)

13. Chairperson's duty with respect to motions

(1) It is the duty of the Chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting. (Reg 238)

(2) The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful. (Reg 238)

(3) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected. (Reg 238)

14. Order of business

(1) At a meeting of a Council (other than an extraordinary meeting), the general order of business is (except as provided by this Regulation) as fixed by the Council's Code of Meeting Practice, or (if the Council does not have a Code of Meeting Practice or its Code of Meeting Practice does not fix the general order of business) as fixed by resolution of the Council. (Reg 239)

(2) The order of business fixed under subclause (1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice. (Reg 239)

(3) Despite clause 250, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put. (Reg 239)

(4) At a meeting of Council (other than an extraordinary meeting) the general order of business shall be:

1. Declare Meeting Open and Welcome
2. Prayer
3. Acknowledgement of Country
4. Apologies
5. Confirmation of minutes of previous meeting(s)
6. Questions arising from minutes
7. Mayoral Minute
8. Declaration/Conflict of Interest
9. Public Forum
10. Committee Report
11. General Manager's Report
12. Finance & Corporate Strategy Report
13. Community and Regulatory Services Report
14. Infrastructure and Engineering Services Report
15. Notices of Motion Report
16. Correspondence Report
17. Questions On Notice Report
18. Business Without Notice – Urgent Matters
19. Closed Meeting of Council

(5) A Public Forum will be provided from shortly after 5:30 pm, following the Mayoral Minute, at ordinary meetings to allow members of the public the opportunity to address Council at that meeting. Speakers will be restricted to three (3) minutes, unless an extension is granted, and must notify the General Manager, prior to 10am on the day of the meeting of their intention to speak and the subject, which is to be addressed. Speakers must address matters that are before Open Council in the business paper for that meeting, with presentations to be in the same order as their subjects appear in the business paper.

15. Agenda and business papers for Council meetings

(1) The General Manager must ensure that the Agenda for a meeting of the Council states:

(a) all matters to be dealt with arising out of the proceedings of former meetings of the Council, 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 meetings, and

(c) subject to subclause (2), any business of which due notice has been given.
(Reg 240)

(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. (Reg 240)

(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. (Reg 240)

(4) If, in the opinion of the General Manager, business to be transacted at a meeting of Council or of a Committee is a kind of business referred to in Section 9(2A) of the Act, the business may be included in a confidential business paper or in a report marked confidential and circulated separately where that business is of a nature specifically prescribed by Section 10A(2) and is of such a nature to significantly impact upon Council's legal position or clearly relate to one or another of the matters prescribed in sub paragraphs (a) – (h) of Section 10A(2) of the Act. All other business to be transacted at the meeting must be included in an ordinary business paper.

(5) If a confidential business paper or report is prepared for a kind of business referred to in Section 9 (2A) of the Act, the business must be referred to in the ordinary business paper prepared for the same meeting in accordance with Section 9 of the Act.

(6) 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. (Reg 240)

(7) Nothing in this clause limits the powers of the Chairperson under clause 243. (Reg 240)

(8) For ordinary meetings, the Agenda is to be issued to members no later than five (5) days prior to such meetings.

Council
Resolution

(7) For ordinary meetings, the close off date for correspondence for the Agenda, is to be eleven (11) days prior to such meetings.

Council
Resolution
No. 99/403
16/11/99
& 2012/435

16. Giving notice of business

(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. (Reg 241)

(2) Subclause (1) does not apply to the consideration of business at a meeting if the business:

(a) is already before, or directly relates to a matter that is already before the Council, or

(b) is the election of a Chairperson to preside at the meeting as provided by clause 236 (1), or

(c) is a matter or topic put to the meeting by the Chairperson in accordance with clause 243, or

(d) is a motion for the adoption of recommendations of a Committee of the Council. (Reg 241)

(3) Despite subclause (1), business may be transacted at a meeting of a Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:

(a) a motion is passed to have the business transacted at the meeting, and

(b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency. Such a motion can be moved without notice. (Reg 241)

(4) Despite Clause 250, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put. (Reg 241)

16.A Public Notice of Meeting

(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. S. 9 (1)

(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. S. 9 (2)

(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 S. 9 2A (a)

(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. S. 9 2A (b)

(3) The copies are to be available to the public as nearly as possible to the time they are available to councillors. S. 9 (3)

(4) The copies are to be available free of charge. S. 9 (4)

(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. S. 9 (5)

17. Agenda for extraordinary meetings

(1) The General Manager must ensure that the Agenda for an extraordinary meeting of a Council deals only with the matters stated in the notice of the meeting. (Reg 242)

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

(a) a motion is passed to have the business transacted at the meeting, and

(b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice but only after the business notified in the Agenda for the meeting has been disposed of. (Reg 242)

(3) Despite clause 250, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put. (Reg 242)

18. Disclosure of interests

(1) The first item on the agenda for all Council or Committee meetings, other than that held annually for election of the Mayor, (after apologies/requests for leave of absence) shall be the declaring of pecuniary interests/conflicts of interest.

(2) A Councillor or a member of a Council Committee who has a pecuniary interest with which Council is concerned and who is present at a meeting of Council or a Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. S. 451 (1)

(3) 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 S. 451 (2)

(b) at any time during which the Council or Committee is voting on any question in relation to the matter.

(4) For the removal of doubt, a Councillor or 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 or a kind referred to in Section 448. S. 451 (3)

(5) Though a conflict of interest is not covered by the provisions of the Act, the Councillor must not be in the meeting room at the time the vote is taken as his/her presence and not voting is taken to be a vote in the negative.

(6) A disclosure made at a meeting of Council or a Committee must be recorded in the minutes of the meeting. S 453

19. Notices of censure

(1) All Notices of Censure intended for consideration at any meeting are to be lodged with the Council by 4.00pm on the second Friday preceding the meeting.

(2)

(a) The General Manager must not include in the business paper for a meeting of Council or Committee of 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 or outside the jurisdiction of Council or Committee of Council. The General Manager may on his or her own initiative make such alterations, corrections or amendments as will put such notice of motion into appropriate form (without changing its substance). In either such event the General Manager will, as soon as is practicable, inform the author of the notice of motion of the action which the General Manager has taken and the reasons for that action.

(b) The General Manager must report without giving details of the item of business any such exclusions as per sub-clause 2 (a) above to the next meeting of Council (without disclosing the details of the item of business). (Reg 240)

(3) In the absence of a Councillor who has placed a notice of censure on the business paper for a meeting of Council or a Committee:

(a) any other Councillor may move the motion at the meeting, or

(b) the Chairperson may defer the motion until the next meeting of Council or Committee at which the motion can be considered. (Reg 245).

(4) If a notice of censure is lodged for inclusion in the ordinary meeting business paper, the Mayor may nevertheless determine in the first instance to refer the notice of motion to the General Manager for report and recommendation to Council.

(5) A Council may by resolution at a meeting formally censure a Councillor for misbehaviour. S. 440G (1)

(6) A formal censure resolution may not be passed except by a motion to that effect of which notice has been duly given in accordance with regulations made under section 360, and, if applicable, the Council's Code of Meeting Practice. S. 440 G (2)

(7) A Council may pass a formal censure resolution only if it is satisfied that the Councillor has misbehaved on one or more occasions. S. 440 G (3)

(8) The Council must specify in the formal censure resolution the grounds on which it is satisfied that the Councillor should be censured. S. 440 G (4)

(9) A motion for a formal censure resolution may, without limitation, be moved on the report of a Committee of the Council and any such report must be recorded in the minutes of the meeting of the Council. S. 440 G (5)

20. Official minutes

(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. (Reg 243)

(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. (Reg 243)

(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. (Reg 243)

(4) Council must ensure that full and accurate minutes are kept of the proceedings of a meeting of Council. s. 375 (1)

(5) The minutes must, when they have been confirmed at a subsequent meeting of Council, be signed by the person presiding at the subsequent meeting. s. 375 (2)

21. Division on Planning Matters

The General Manager is required to keep a public register containing for each planning decision made at a council or committee meeting, the names of councillors who supported the decision and those that opposed the decision. This provision applies to planning decisions made by councillors in relation to development applications, environmental planning instruments, development control plans and development contribution plans. To maintain the register, a division must be called whenever a planning decision is put at a council or committee meeting including meetings closed to the public. s. 375A

22. Report of a departmental representative to be tabled at Council meeting

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 (Reg 244)

23. Notice of motion – absence of mover

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

- (a) any other Councillor may move the motion at the meeting, or
- (b) the chairperson may defer the motion until the next meeting of the Council at which the motion can be considered. (Reg 245)

24. Motions to be seconded

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). (Reg 246)

25. How subsequent amendments may be moved

If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the Council at any one time. (Reg 247)

26. Motions of dissent

(1) A Councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent. (Reg 248)

(2) If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from has not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business to the Agenda and proceed with it in due course. (Reg 248)

(3) Despite clause 250, only the mover of a motion of dissent and the Chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply. (Reg 248)

27. Questions may be put to Councillors and Council employees

- (1) A Councillor:
- (a) may, through the chairperson, put a question to another Councillor, and
 - (b) may, through the General Manager, put a question to a Council employee. (Reg 249)
- (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. (Reg 249)
- (3) The Councillor must put every such question directly, succinctly and without argument. (Reg 249)
- (4) The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this clause. (Reg 249)

28. Limitation as to number of speeches

- (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. (Reg 250)
- (2) A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it. (Reg 250)
- (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. (Reg 250)
- (4) Despite subclause (1) and (2), a Councillor may move 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. (Reg 250)

(5) The Chairperson must immediately put to the vote, without debate, a motion moved under subclause (4). A seconder is not required for such a motion. (Reg 250)

(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 (1). (Reg 250)

(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. (Reg 250)

28.A Rescinding or altering resolutions

(1) A resolution passed by Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in time for such notice to be included in the Agenda for the meeting at which it is to be presented, unless it is at the same meeting at which the motion was originally considered. *S. 372 (1) & Council Resolution*

(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. *S. 372 (2)*

(3) If a motion has been negatived by Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with Council's Code of Meeting Practice. *S. 372 (3)*

(4) A notice of motion to alter or rescind a resolution and a notice of motion which has the same effect as a motion which has been negatived by Council must be signed by 3 Councillors if less than three months has elapsed since the resolution was passed, or the motion was negatived, as the case may be. *S. 372 (4)*

(5) If a motion to alter or rescind a resolution has been negatived, or if a motion which has the same effect as a previously negatived motion, is negatived, no similar motion may be brought forward within 3 months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same. *S. 372 (5)*

(6) A motion to which this section applies may be moved on the report of a Committee of Council and any such report must be recorded in the minutes. *S. 372 (6)*

(7) The provisions of this section concerning negatived motions do not apply to motions of adjournment. S. 372 (7)

(8) 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. S. 371

29. Certain circumstances do not invalidate Council's Decision

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

- (a) a vacancy in a civic office; or S. 374
- (b) a failure to give notice of the meeting to any Councillor or a 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 of the Act; or
- (e) a failure to comply with Code of Meeting Practice.

30. Voting at Council meetings

(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. (Reg 251)

(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. (Reg 251)

(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. (Reg 251)

(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. (Reg 251)

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

Note. Part II of this Regulation provides that a Council is to resolve whether an election by the Councillors for Mayor or Deputy Mayor is to be by preferential ballot, ordinary ballot or open voting (clause 394 and clause 3 of schedule 7). Clause 3 of Schedule 7 also makes it clear that “ballot” has its normal meaning of secret ballot. (Reg 251)

(6) Each Councillor is entitled to one vote.

S. 370 (1)

(7) However, the person presiding at a meeting of Council has, in the event of an equality of votes, a second or casting vote.

S. 370 (2)

31. Representations by members of the public – closure of part of meeting

(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. (Reg 252)

(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. (Reg 252)

32. Resolutions passed at closed meetings to be made public

If a Council passed a resolution during a meeting, or part of a meeting, that is closed to the public, the Chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended. (Reg 253)

33. Matters to be included in minutes of Council meeting

(1) 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, (Reg 254)

- (b) the names of the mover and seconder of the motion or amendment, (Reg 254)
- (c) whether the motion or amendment is passed or lost. (Reg 254)
- (d) attendance of Councillors,
- (e) declarations of pecuniary interest and conflicts of interest by Councillors,
- (f) votes on divisions, and dissenting votes when requested by a Councillor,
- (g) circumstances relating to the absence of a quorum at or arising during a meeting, together with the names of the Councillors present

Note. Section 375 (1) of the Act requires a Council to ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council (other provisions of this Regulation and of the Act require particular matters to be recorded in a Council's minutes). (Reg 254)

(2) Any entries in the minute book found to be incorrect, must not be altered or erased. Any mistake or omission will be the subject of a resolution at, and recorded in the minutes of, a subsequent meeting.

(3) Any business arising from consideration of the minutes of a previous meeting does not permit a matter to be the subject of further resolutions at that meeting.

(4) On each sheet of the Council or Committee minute book there will be placed a heading setting out:

- (a) the nature of the meeting
- (b) the date of the meeting, and
- (c) the page number

(5) Immediately after the conclusion of the last minute of a meeting of Council there will be placed a certificate to be signed by the Chairperson of the meeting at which the minutes are confirmed in or to the following effect:

"The minutes (pages 1 to xxx) were confirmed at a meeting held on the day of 2012, and are a full and accurate record of proceedings of the meeting held on the

CHAIR

(6) At the bottom of each page of the minutes of a meeting of the Council or a Committee there will be placed a certificate signed by the Mayor in or to the following effect:

“Minutes of Meeting held Page 1
..... Mayor

This must be signed personally.

Part 4 – Keeping order at meetings

34. Questions of order

(1) The Chairperson, without the intervention of any Councillor, may call any Councillor to order whenever, in the opinion of the Chairperson, it is necessary to do so. (Reg 255)

(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. (Reg 255)

(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. (Reg 255)

(4) The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed. (Reg 255)

35. Acts of disorder

(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. (Reg 256)

(2) The Chairperson may require a Councillor:

(a) to apologise without reservation for an act of disorder referred to in subclause (1) (a) or (b), or

(b) to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation, or

(c) to retract and apologise without reservation for an act of disorder referred to in subclause (1) (d) or (e). (Reg 256)

(3) A Councillor may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a Council for having failed to comply with a requirement under subclause (2). The expulsion of a Councillor from the meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder concerned. (Reg 256)

36. How the disorder at a meeting may be dealt with

(1) If a disorder occurs at a meeting of a Council, the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors. (Reg 257)

(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. (Reg 257)

37. Power to remove persons from the meeting after expulsion

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

(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. (Reg 258)

Part 5 – Council Committees

38. Committee of the whole

(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. (Reg 259)

(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. (Reg 259)

(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. (Reg 259)

39. Council may establish Committees

A Council may resolve itself into a committee to consider any matter before the Council. s. 373

(1) A Council may, by resolution, establish such Committees as it considers necessary. (Reg 260)

(2) A committee is to consist of the Mayor and such other Councillors as are elected by the Councillors or appointed by the Council. (Reg 260)

(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. (Reg 260)

40. Functions of Committees

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

41. Notice of Committee meetings to be given

- (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. (Reg 262)
- (2) However, notice of less than 3 days may be given of a Committee meeting called in an emergency. (Reg 262)

42. Non-members entitled to attend Committee meetings

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

Note:- This Regulation applies only to Committees of which all members are Councillors. It does not extend to s.355(b) Committees which include members of the public or other organisations. The conduct of such committees is governed by the Committee Charter.

43. Representations by members of the public – closure of part of meeting

(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. (Reg 264)

(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. (Reg 264)

44. Procedure in Committees

(1) Subject to subclause (3), each Committee of a Council may regulate its own procedure. (Reg 265)

(2) Without limiting subclause (1), a Committee of a Council may decide that, whenever the voting on a motion put to a meeting of the Committee is equal, the Chairperson of the Committee is to have a casting vote as well as an original vote. (Reg 265)

(3) Voting at a Committee meeting is to be by open means (such as on the voices or by show of hands). (Reg 265)

(4) To maintain the planning decisions register, a division is to be called whenever a planning decision is put at a council or committee meeting including meetings closed to the public.

S. 375A

45. Committees to keep minutes

(1) Each Committee of a Council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular, a Committee must ensure that the following matters are recorded in the Committee's minutes:

(a) details of each motion moved at a meeting and of any amendments moved to it, (Reg 266)

(b) the names of the mover and seconder of the motion or amendment, (Reg 266)

(c) whether the motion or amendment is passed or lost. (Reg 266)

- (d) recommendations that are to be submitted to the Council,
- (e) resolutions of the Committee made under delegated authority,
- (f) attendance of members of the Committee,
- (g) declarations of pecuniary interests and conflict of interests by Councillors and Committee members appointed,
- (h) votes on divisions, and dissenting votes when requested by a Councillor or Committee member appointed;

(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. (Reg 266)

46. Chairperson and Deputy Chairperson of Committees

- (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. (Reg 267)
- (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. (Reg 267)
- (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. (Reg 267)
- (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 is to preside at the meeting but if neither the Chairperson nor the Deputy Chairperson is able or willing to preside, the Acting Chairperson is to preside at the meeting. (Reg 267)

47. Absence from Committee meetings

- (1) A member ceases to be a member of a Committee if the member:
- (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 a 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. (Reg 268)
- (2) Subclause (1) does not apply in respect of a committee that consists of all the members of the Council.

Note. The expression "year" means the period beginning 1 July and ending the following 30 June. See the dictionary to the Act. (Reg 268)

48. Reports of Committees

- (1) If in a report of a Committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation. (Reg 269)
- (2) The recommendations of a Committee of the Council are, so far as adopted by the Council, resolutions of the Council. (Reg 269)
- (3) If a Committee of the Council passes a resolution, or makes a recommendation, during 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. (Reg 269)

48.A Certain circumstances do not invalidate Council decisions

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

- (a) a vacancy in a civic office; or
- (b) a failure to give notice of the meeting to any Councillor or Committee member; or

S. 374 (a)
to (e)

- (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.

49. Disorder in Committee meetings

The provisions of the Act and of this Regulation relating to the maintenance or order in Council meetings apply to meetings of Committees of the Council in the same way as they apply to meetings of the Council. (Reg 270)

50. Certain persons may be expelled from Council meetings

(1) If a meeting or part of a meeting of a Committee of a Council is closed to the public in accordance with section 10A of the Act, any person who is not a Councillor may be expelled from the meeting as provided by section 10(2) (a) or (b) of the Act. (Reg 271)

(2) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council, Committee or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place. (Reg 271)

Part 6 – Miscellaneous

51. Disclosure and misuse of information - prescribed circumstances

(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

S. 664

(c) for the purposes of any legal proceedings arising out of this Act or of any report of any 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 Council or a Committee of Council is closed to the public in accordance with section 10A (1) of the Act, a person must not, without the authority of Council or the Committee, disclose, (otherwise than to Council, or to 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 Council after it has been presented to the Council; or

(b) the disclosure made in any of the circumstances (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 factor 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

52. Inspection of the minutes of a Council or Committee

(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. (Reg 272)

(2) The General Manager must ensure that the minutes of the Council and any minutes of a Committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

Note. Section 12 of the Act confers a right (restricted in the case of closed parts of meetings) to inspect the minutes of a Council or Committee of a Council. (Reg 272)

52.A Restriction of access to information

(1) Council may refuse a request for information if there is an overriding public interest against disclosure or if searching for the requested information would require unreasonable and substantial diversion of Council's resources. Council will explain to the applicant the reasons for applying any exemption.

GIPA Act
2009

(2) In determining whether there is an overriding public interest against the disclosure of the information, Council will fully consider the Public Interest Test as provided for in the Government Information (Public Access) Act 2009.

GIPA Act
2009

(3) An applicant who has been refused access by Council to information requested has three options of review available:-

GIPA Act
2009

- (a) Internal Review
- (b) Review By the Information Commissioner
- (c) Review By The Administrative Decisions Tribunal

53. Tape recording of meeting of Council or Committee prohibited without permission

(1) A person may use a tape recorder to record the proceedings of a meeting of Council or a Committee of a Council only with the authority of the Council or Committee. (Reg 273)

(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. (Reg 273)

(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 necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place. (Reg 273)

(4) In this clause, *tape recorder* includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not. (Reg 273)

53.A Public access to correspondence and reports

(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. S. 11 (1)

(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. S. 11 (2)

(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 S. 10A (2) are to be treated as confidential. S. 11 (3)

54. Council seal

(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,

(b) at least one Councillor (other than the Mayor) and the General Manager, or

(c) the Mayor and at least one other Councillor, or

(d) at least 2 Councillors other than the Mayor.

(3) The affixing of a Council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2) attest by their signatures that the seal was affixed in their presence).

(4) The seal of a Council must not be affixed to a document unless 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 subclause (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. (Reg 400)

55. Election of Mayor by Councillors

(1) **Returning officer**

The General Manager (or a person appointed by the General Manager) is the returning officer.

(2) **Nomination**

(a) A Councillor may be nominated without notice for election as Mayor or Deputy Mayor.

(b) The nomination is to be made in writing by 2 or more Councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.

(c) The nomination is to be delivered or sent to the returning officer.

(d) The returning officer is to announce the names of the nominees at the Council meeting which the election is to be held.

(3) **Election**

(a) If only one Councillor is nominated, that Councillor is elected.

(b) If more than one Councillor is nominated, the Council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.

(c) The election is to be held at the Council meeting at which the Council resolves on the method of voting.

(d) In this clause:

ballot has its normal meaning of secret ballot.

Open voting means voting by a show of hands or similar means.

(4) **Ordinary ballot or open voting**
Application of part

This part applies if the election proceeds by ordinary ballot or by open voting.

(5) **Marking of ballot-papers**

(a) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot papers.

(b) The formality of a ballot paper under this part must be determined in accordance with Clause 345 (1) (b) and (c) and (6) of this regulation as if it were a ballot paper referred to in that clause.

(c) An informal ballot paper must be rejected at the count.

(6) **Count – 2 candidates**

(a) If there are only 2 candidates, the candidate with the higher number of votes is elected.

(b) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

(7) Count – 3 or more candidates

(a) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.

(b) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.

(c) If, after that, 3 or more candidates still remain, the procedure set out in subclause (b) is to be repeated only until 2 candidates remain.

(d) A further vote is to be taken of the 2 remaining candidates.

(e) Clause 6 then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.

(f) If at any stage during a count under subclause (a) or (b), 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot. [\(Reg Schedule 7\)](#)

(8) Choosing by lot

To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen.

(9) Result

The result of the election (including the name of the candidate elected as Mayor or Deputy Mayor) is:

(a) to be declared to the Councillors at the Council meeting at which the election is held by the returning officer, and

(b) to be delivered or sent to the Director-General and to the Secretary of the Local Government and Shires Associations of New South Wales.