



Code of Meeting Practice

January 2018

Background:

Section 360 (2) of the Local Government Act 1993 permits Council to adopt a code of meeting practice. This code allows Council to set out standards for the conduct of Council meetings, in addition to those standards set by the Local Government Act 1993 and the Local Government (General) Regulation 2005.

Objective:

This code guides the conduct of meetings of the City of Parramatta Council. This code acts in addition to the relevant provisions of the Local Government (General) Regulation 2005 and the Local Government Act 1993.

Scope:

This code applies to all meetings of the City of Parramatta Council.

Relationship to Legislation:

This code is related to the Local Government Act 1993, and the Local Government Meetings Regulation. This code refers to the Environmental Planning and Assessment Act 1979.

Related Strategies, Plans or Policies:

This code is related to and should be read in conjunction with the Code of Conduct.

Review:

This policy is scheduled to be comprehensively reviewed following the next general election of Council.

Version 1 – 23 October 2006 – Minute Number 8791

Version 2 – 24 September 2007 – Minute number 9464

Version 3 – 25 February 2008 –

Version 4 – 7 October 2008 – Minute number 10198

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Version 11 – 13 Nov 2017 Minute No 884 (Amendment of Part 2 Clause 10(4))

Version 12 – 11 Dec 2017 Minute No 979 (Amendment to Part 2 Clause 22(1-2) also changes to internal timings)

Owner:

The Governance and Risk Unit is responsible for this policy.

Code of Meeting Practice		
Owner: Service Manager Governance Infrastructure	Area: Governance and Risk	POL No: 219
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PART 1 – INTRODUCTION TO THE CODE

1. INTRODUCTION

This Code may be cited as the City of Parramatta Council Code of Meeting Practice. The Code is based on the Local Government (General) Regulation and it includes relevant references to sections of the Local Government Act (LGA) as well as relevant Council policies.

2. AIM & AUTHORITY

- (1) In adopting a Code of Meeting Practice, City of Parramatta Council commits itself to the principles contained herein.
- (2) Meetings should be orderly, efficient and earn the respect of the City's ratepayers and residents.
- (3) Meetings shall be conducted with the Council's commitment to open government and maximise access and participation by the City's residents.
- (4) Councillors have an obligation to conduct themselves at meetings to high standards of behaviour and make a positive contribution to all decisions and debates. **This means that:**
 - a Issues shall be debated if necessary,
 - b Respect shall be given to opposing views,
 - c Acceptable language shall be used at all times,
 - d The Council shall not be brought into disrepute by a member's words or actions.
- (5) Council Meetings shall comply with the principle that Councillors do not involve themselves in day-to-day administration. Meetings should be restricted to matters of policy, direction, resource allocation and statutory decisions by Council.
- (6) Council's Code of Conduct also provides guidance and support to the Code of Meeting Practice in the principles of conduct at meetings and whilst representing Council in any forum.

3. AMENDMENT OF CODE

(Section 363 LGA).

- (1) This Code may be amended only in accordance with the provisions of Division 1 of Part 2 of Chapter 12 of the Local Government Act.

4. BACKGROUND

Council's Charter

(Section 8(1) & (2) LGA)

- (1) A Council has the following charter:
 - a to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for

the community and to ensure that those services and facilities are managed efficiently and effectively;

- b to exercise community leadership; to exercise its functions with due regard for the cultural and linguistic diversity of its community; to promote and to provide and plan for the needs of children;
- c to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible;
- d to have regard to the long term and cumulative effects of its decisions;
- e to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
- f to facilitate the involvement of Councillors, members of the public, users of facilities and services and Council staff in the development, improvement and co-ordination of local government;
- g to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowing's and grants;
- h to keep the local community and the State government (and through it, the wider community) informed about its activities;
- i to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the Council is affected;
- j to be a responsible employer.

(2) A Council, in the exercise of its functions, must pursue its charter but nothing in the charter or this section gives rise to, or can be taken into account in, any civil cause of action.

5. Council's Values

Customer Service

We (the Council and its staff) communicate openly with our customers, are responsive to their needs and create new relationships as our City grows.

Teamwork

We support the role of leadership, collaborate within and across our teams and build effective partnerships with colleagues and our community to achieve our goals.

Innovation

We build on our strengths, champion creative solutions and seek new and sustainable ways of delivering superior outcomes.

Integrity

We deliver on promises, act ethically, take responsibility for our actions and speak up respectfully. Integrity is the foundation on which everything is based.

6. ROLE

Any references in this Code to Lord Mayor, Deputy Lord Mayor or Councillor can be taken to mean "Administrator" during any period in which the Council is under Administration. Further, any references to CEO can be taken to mean Interim General Manager in such period.

It should be noted that certain references such as motions, amendments and

Lord Mayor

(Section 226 LGA).

- (1) The role of the Lord Mayor is:
 - a to exercise, in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council;
 - b to exercise such other functions of the Council as the Council determines;
 - c to preside at meetings of the Council;
 - d to carry out the civic and ceremonial functions of the Lord Mayoral office.

Deputy Lord Mayor

- (2) The Councillors may elect a person from among their number to be Deputy Lord Mayor for the Lord Mayoral term or a shorter term.

(Section 231(1) & (2) LGA).

- (3) The Deputy Lord Mayor may exercise any function of the Lord Mayor at the request of the Lord Mayor, or if the Lord Mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of the Lord Mayor.

(Section 231(3) LGA).

- (4) The Councillors may elect a person from among their number to act as Deputy Lord Mayor if the Deputy Lord Mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no Deputy Lord Mayor has been elected.

(Section 231(4) LGA).

Councillors

- (5) The role of a Councillor is, as a member of the governing body of the Council:
 - a to direct and control the affairs of the Council in accordance with the Act (and this Code).
 - b to participate in the optimum allocation of the Council's resources for the benefit of the area;
 - c to play a key role in the creation and review of the Council's policies and objectives and criteria relating to the exercise of the Council's regulatory functions;
 - d to review the performance of the Council and its delivery of services, and the management plans and revenue policies of the Council.

(Section 232(1) LGA).

- (6) The role of a Councillor is, as an elected person:
 - a to represent the interests of the residents and ratepayers;
 - b to provide leadership and guidance to the community;
 - c to facilitate communication between the community and the Council.

(Section 232(2) LGA).

Functions of Chief Executive Officer (CEO) (LGA 1993 – Section 335)

- (7) The CEO is generally responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation, without undue delay, of decisions of the council.

- (8) The CEO has the following particular functions:

- to assist the council in connection with the development and implementation

of the community strategic plan and the council's resourcing strategy, delivery program and operational plan and the preparation of its annual report and state of the environment report

- the day-to-day management of the council
- to exercise such of the functions of the council as are delegated by the council to the general manager
- to appoint staff in accordance with an organisation structure and resources approved by the council
- to direct and dismiss staff
- to implement the council's equal employment opportunity management plan.

(9) The CEO has such other functions as may be conferred or imposed on the CEO by or under this or any other Act.

7. PUBLIC AVAILABILITY OF THE CODE

(Section 364 LGA)

(1) In accordance with section 364 of the Local Government Act 1993, this code is available for public inspection free of charge at Council's administration building during business hours, and on Council's website <http://www.parracity.nsw.gov.au>

PART 2 – MEETING PREPARATION

8. MEETINGS AND FREQUENCY

Meetings

- (1) Council is required to meet at least 10 times each year, each time in a different month.
(Section 365 LGA).
- (2) Council shall, by resolution, set the time, date, and place of meetings of the Council.
- (3) The Lord Mayor may only call extraordinary meetings of the Council with the written consent of another councillor.
- (4) If the Lord Mayor receives a request in writing signed by at least two (2) Councillors (one of whom can be the Lord Mayor), the Lord Mayor must call an extraordinary meeting of the Council to be held as soon as practicable but in any event within 14 days after the receipt of the request.
(Section 366 LGA).

Splitting of Programs Considered in Council's Meeting Cycle

- (5) In the case of such a split the following is to apply:
 - (a) Staff Reports pertaining to Planning issues only are to be considered at the meeting of the second Monday of every month, such meeting to be known as Council Meeting - Development. Council may still consider Minutes of the Lord Mayor, Public Forum, Petitions and Rescission Motions.
 - (b) Joint authority be given to the Lord Mayor and Chief Executive Office to include further items on the Council Meeting – Development on the grounds of urgency or importance.
 - (c) Any item, including planning matters, may be considered at the Council Meeting to be held on the 4th Monday of the month, such meeting to be simply known as an Ordinary Council Meeting.

Independent Hearing Assessment Panels (IHAPs)

- (6) With the introduction of IHAP meetings on 14 June 2016, Council will hold one Ordinary Council Meeting per month on the 2nd Monday of that month after 1 January 2017 as development applications will be considered either by the IHAP or under delegated authority and will negate the need for the additional Council Meeting. Annexure F is the adopted charter for the IHAP.
- (7) It is noted that planning proposals will also be considered by IHAPs with a recommendation being made to Council on the merits of such proposal. It is considered appropriate that any decision made by Council to change the recommendation of the IHAP include reasons for such change for transparency reasons.

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

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

Variations on Council Meetings

- (9) Council may resolve to alter or amend other aspects of Council meetings for specific meetings.

9. GIVING NOTICE OF BUSINESS

(Clause 241, Local Government (General) Regulation)

- (1) A Council must not transact business at a meeting of the council:
- a unless a Councillor has given notice of the business in writing within such time before the meeting as is fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by the resolution of the council, and
 - b unless notice of the business has been sent to the Councillors in accordance with section 367 of the Local Government Act.
(Refer to section 10 of this code, 'Public Notice').
- (2) For the purpose of subsections 1(a) – (b) above, written notice of motions must be received by 10.00am on the Wednesday 2 weeks prior to the desired Council meeting (i.e. 12 days prior to the Council meeting).
- (3) Subsection 2 above 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) of the Local Government (General) Regulations
(See Annexure A), or
 - c is a matter or topic put to the meeting by the chairperson in accordance with clause 243 of the Meeting Regulations
(Refer to s26 of this code, 'Duty of Chair'), or
 - d is a motion for the adoption of recommendations of a committee of the council.

10. BUSINESS PAPER

Agendas and Order of Business

(Local Government (General) Regulations Section 12)

- (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.

The order of business for an Ordinary Council Meeting shall be:-

1. Confirmation of Minutes
 2. Apologies
 3. Declarations of Interest
 4. Minutes of Administrator
 5. Public forum
 6. Petitions
 7. Economy
 8. Environment
 9. People and Neighborhoods
 10. Culture and Sport
 11. Leadership and Governance
 12. Closed Session
 13. Decisions from Closed Session
- (2) The order of business fixed under subsection 1 may be altered if a motion to that effect is passed. Such a motion can be moved without notice.
- (3) Only the mover of a motion referred to in subsection 2 above may speak to the motion before it is put.
- (4) Current practice is to meet on the 2nd Monday the month. Additional Ordinary Council Meetings will be held once in each quarter in the months of February, May, August and November. These additional meetings being for the purpose of the consideration of quarterly statutory reports and other matters as determined by the Chief Executive Officer.

Agenda and Business Papers for Council Meetings

(Clause 240, Local Government (General) Regulation)

- (5) The CEO 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 Lord Mayor is the chairperson and 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 subsection b above, any business of which due notice has been given.
- (6) The CEO 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 Chief Executive Officer (CEO), the business is (or the implementation of the business would be) unlawful. The CEO must report (without giving details of the item of business) any such exclusion to the next meeting of the council.
- (7) The CEO 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.
- (8) The CEO must ensure that the details of any item of business to which section

9 (2A) (Refer to Annexure E) of the Local Government Act applies are included in a business paper for the meeting concerned.

- (9) Nothing in this clause limits the powers of the chairperson to issue a Minute under Clause 243 of the Local Government (General) Regulation. (Refer to section 26 of this code, 'Duty of Chair').
- (10) Business papers are to be made available in Libraries by the Tuesday prior to an ordinary Council meeting.

Internal Floor Plans in Business Papers

- (11) The internal floor plans for proposed residential developments will not be made available in the public Business paper of Council Meetings, because of security, privacy and copyright issues.

11. PUBLIC NOTICE

Notice of Meetings

(Section 367, LGA)

- (1) The CEO 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) The present practice provides for the agenda to be available to Councillors 10 days prior to the meeting
- (3) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.

Note : An **emergency** requires the important features of a demand as opposed to a desirability and a sense of danger as opposed to mere apprehension. (Butterworths Australian Legal Dictionary). The Lord Mayor together with the CEO will determine the situation of **emergency**.

- (4) 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. (Section 367 LGA). At City of Parramatta Council, Councillors will have access to notice, agenda and business papers via their individually nominated means. Councillors may choose from hard copy, or electronic means of access.
- (5) This clause prescribes the manner in which the requirements outlined in section 9 (1) of the Local Government Act 1993 are to be complied with.
 - a 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.
Local Rule: Notice is also to be placed on Council's web-site.
 - b The notice must specify the time and place of the meeting or any changes from the ordinary.

- c Notice of more than one meeting may be given in the same notice.
 - d This clause does not apply to an extraordinary meeting of a council or committee.
 - e The Council must give notice to the press and public of the times, dates and places of its meetings and meetings of those of its committees of which all the members are Councillors.
(Section 9(1) LGA).
- (6) The Council and each such committee must have available for the press and public at its offices and at each meeting copies (for inspection and taking away by persons) of the business paper for the meeting. This requirement does not apply to a business paper for a matter that, in the opinion of the CEO is likely to be considered when the meeting is closed to the press and public.
(Section 9(2)LGA).
- (7) The copies are to be available to the press and public from 9.00 a.m. on the Tuesday preceding the meeting.
- (8) An iPad will be made available immediately prior to the meeting for the use by the Press to gain access to the business paper.

PART 3 – MEETINGS GENERAL

12. CHAIR (PRESIDING OFFICER)

- (1) The Lord Mayor or, at the request of or in the absence of the Lord Mayor, the Deputy Lord Mayor (if any) presides at meetings of the Council.
(Section 369(1) LGA).
- (2) If the Lord Mayor and the Deputy Lord Mayor (if any) are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council.
(Section 369(2) LGA).
See also Local Government (General) Regulation Clause 236 in annexure A –election of Chairperson.
- (3) Local Rule - If the Chairperson, Lord Mayor or Deputy Lord Mayor, does not arrive within 10 minutes of the time designated for the commencement of the meeting then an election for a Chairperson will take place.

13. QUORUM

- (1) The quorum for a Council meeting is a majority of the Councillors who hold office for the time being and who are not suspended from office.
(Section 368 LGA).

What happens when a quorum is not present?

(Clause 233, Local Government (General) Regulation)

- (2) 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.
- (3) 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 CEO.
- (4) The CEO must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the Councillors present.
- (5) A breach of the Code of Conduct will be deemed to have occurred if a Councillor or Councillors willfully retire from a Council Meeting with the intent of the Council losing its Quorum or intentionally withhold a Quorum by not attending.

14. ABSENCE FROM MEETINGS

- (1) A Councillor who does not attend more than 3 consecutive Council meetings may lose their civic office unless leave has been granted.
(Section 234 [1d] Local Government Act 1993)

- (2) Leave may be granted by the Council at a meeting prior to the period of leave or at the meetings concerned.
(Section 234 (1d) Local Government Act 1993)
- (3) A Councillor applying for a leave of absence from a meeting of council does not need to make the application in person, and the Council may grant such leave in the absence of that Councillor.
(Section 234 (2) Local Government Act 1993)
- (4) 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
(Clause 235A, (1) Local Government (General) Regulation) (2006 Amendment)
- (5) A Councillor who intends to attend a council meeting despite having been granted leave of absence should, if practicable, give the CEO at least 2 days' notice of his or her intention to attend.
(Clause 235A (2) Local Government (General) Regulation) (2006 Amendment)
- (6) It is appropriate for Councillors seeking leave of absence for extended periods to seek such leave in Confidential session in order to protect their privacy. Then at future meetings it be noted in open session that leave of absence has been previously granted.

15. PRESENCE AT MEETINGS

(Clause 235, Local Government (General) Regulation 2005)

Participation

- (1) A Councillor cannot participate in a meeting of a council unless personally present at the meeting.
- (2) This also includes the submission of Notice of Rescission lodged in relation to an item considered at that meeting.

Who is entitled to attend meetings?

- (3) Except as provided by this Part:
- (4) Everyone is entitled to attend a meeting of the council and those of its committees of which all the members are Councillors.
- (5) A council must ensure that all meetings of the council and of such committees are open to the public.
(Section 10 (1)(a) & (b) Local Government Act 1993)
- (6) 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.
(Section 10 (2) Local Government Act 1993)
- (7) A person may be expelled from a meeting only on the grounds specified in, or

in the circumstances prescribed by, the regulations.

(Section 10 (3) Local Government Act 1993)

16. MOBILE TELEPHONES

- (1) Mobile telephones must be switched off, or set to silent operation during the Council or other meeting.

17. PUBLIC PARTICIPATION/PUBLIC FORUM

- (1) Any person may submit a question, comment or statement to the Public Forum session of Ordinary Council Meetings.
- (2) Questions or issues must be lodged in writing with name, and contact details prior to 4 p.m. on the Friday prior to the Council Meeting with a member of the Governance and Risk Team on the 10th Floor of the Council's Administrative Building, 126 Church Street, Parramatta.
- (3) Questions/statements must relate to general policy matters including development applications noting that Council has set up an Independent Hearing and Assessment Panel to determine development applications and that is where people need to be directed as this is the forum where their submissions will have the most impact.
- (4) The Public Forum does not apply to confidential matters that have previously been considered by Council in closed Committee and must contain full transcript of the proposed speech.
- (5) Following the receipt of questions, the following procedure will apply:
 - a Questions/Statements will be registered in order of receipt.
 - b Fifteen (15) minutes worth of questions will be considered at that night's Council meeting and any remaining questions will be held over to a later meeting of Council.
 - c Advice as to which questions will be considered will be forwarded to participants.
 - d Priority will be given to those wishing to speak that have not done so before.
- (6) At the Council meeting
 - a. A maximum of 15 minutes will be allowed for the Public Forum with each item of public forum not exceeding 5 minutes.
 - b Fifteen (15) minutes of questions will be considered at the night's meeting with priority being given to questions/statements that relate to a current agenda item. Remaining questions will be listed on a future Council Meeting subject to it being noted that the Lord Mayor may extend Public Forum at his/her discretion.
- (7)
 - a. Participants will be invited to pose their question or issues by the Lord Mayor at the appropriate time.
 - b. Participants must address their question/issue to the Lord Mayor who may nominate another Councillor or staff member to respond.
 - c. The question and the response given will be included in the

Minutes of the Meeting.

- d. Public have the right of reply within the time limits

Petitions

- (8) For the purposes of this Code, a petition consists of a minimum of **six (6)** signatories, with each page of a petition requiring a suitable heading identifying the subject matter of the petition.
- (9) Where there are ten or fewer petitioners, all petitioners are to receive an acknowledgement of the petition. Where a petition is signed by more than ten petitioners, the head petitioner is to be identified, and acknowledged. The head petitioner is to be requested to notify other petitioners of Council's acknowledgment.
- (10) Where the petition has not been placed upon an agenda the Councillor presenting the petition **must read it** and then hand it to the Lord Mayor, and the Councillor is to move a motion as to how the matter is to be determined by Council. The preferred approach would be a motion along the lines of "that the petition be received and referred to the appropriate officer for report".

18. CONFLICT OF INTEREST

Annexure B provides the most recent information pertaining to Conflicts of Interest and Pecuniary Interest.

19. LATE TABLING OF INFORMATION RELATING TO DEVELOPMENT APPLICATIONS AND MASTER PLANS

- (1) Only information that has been properly assessed by, or on behalf of, Council officers in accordance with the relevant legislation is to be considered in the determination of a development or master plan.
- (2) In the event that information is provided for the consideration of either Council or its Committee that has not been assessed in the officer's report, Council or the relevant Committee may choose to:
 - a disregard that information in the determination of the application; or
 - b defer the item to enable the information tabled to be properly assessed and acknowledged in the officer's report.
- (3) Where necessary, the development application or master plan will first be re-notified.

20. CLOSED COUNCIL

(Section 10A, LGA)

Which parts of the meeting can be closed to the Public?

- (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 below in subsections 2(a)-(h),
 - 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,
(All staff may be asked to leave the meeting. The Council may wish to discuss the matter either with the CEO or without the CEO present.)
 - 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.
- (3) A council, or a committee of the council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.
- (4) A council, or a committee of a council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.
- (5) Specialist advisors may be invited to attend closed meetings. In such instances the names of these specialists are to be recorded and shown in the minutes of the meeting.

Further limitations relating to closure of parts of meetings to public

(Section 10B, LGA)

- (6) A meeting is not to remain closed during the discussion of anything referred to in section 10A (2) of the Local Government Act 1993;
- a Except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
 - b If the matter in question is:
 - i A matter other than a personnel matter concerning particular individuals
 - ii The personal hardship of a ratepayer, or
 - iii A trade secret
- (7) 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.

Grounds for closing part of meeting to be specified*(Local Government Act Section 10D)*

- (8) 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.
- (9) The grounds must specify the following:
- a The relevant provision of section 10A (2) of the Local Government Act 1993, *(See section 19 of this code, 'Closed Session')*.
 - 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.
- (10) The chairperson is to advise members of the public of the details listed in subsections 6(a) – (c) above.

Representations by members of the public – closure of part of meeting*(Local Government (General) Regulations Section 252)*

- (11) 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.
- (12) That period shall commence with a request, by the chairperson, that any person wishing to make a representation do so. The chairperson must allow a reasonable space of time for councillors and members of the gallery to respond. All persons, including councillors, wishing to make a representation will be allowed to speak for no longer than 3 minutes. Should no person indicate a wish to make a representation, the Lord Mayor shall announce that the time for representations has closed.

Resolutions passed at closed meetings to be made public*(Local Government (General) Regulation Clause 253)*

- (13) 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.
- (14) There is no need for closed council resolutions to be ratified in Open Council – simply that the resolution needs to be recorded in the minutes which are made available to the public.

21. COUNCIL COMMITTEES

- (1) Council does not have a committee structure at present and should such a structure be introduced in the future, Council should adhere to the relevant clauses in the Local Government (General) Regulation 2005 at that time.

22. MEETING DURATION AND ADJOURNMENT

- (1) Council Meetings to commence at 6.30pm and finish at 11.00 p.m. with provision for one half-hourly extension to complete the business of Council or Committee.
- (2) If Council or Committee meeting is not completed by 11.30pm, the Chairperson must set the time and date for the reconvened meeting.

PART 4 – PROCEDURAL

23. MOTIONS AND AMENDMENTS

Chairperson’s duty with respect to motions

(Clause 238, Local Government (General) Regulation)

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

Notice of Motion – Absence of mover

(Clause 245, Local Government General Regulation)

- (4) 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.

Motions to be seconded

(Clause 246, Local Government (General) Regulation)

- (5) A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clauses 243 (2) Official *Minutes* (see section 26 of this code) and 250 (5) Limitations as to Number of Speeches (see section 24 of this code, ‘Debate and Closing Debate’) of the meeting regulations.
- (6) A seconder is not required on motions moved by the Lord Mayor contained in a Lord Mayoral minute.
- (7) Clause 250 (4)&(5) of the Local Government (General) Regulation - Closing Debate. (See section 24 of this code) A seconder is not required for a motion “That the motion be put.

24. AMENDMENTS

- (1) Any variation to a motion or to an amendment or for a fresh motion/ amendment shall be provided to the Council Secretary in writing. An amendment cannot be a direct negative of the motion.

Attached is a flow chart entitled “The life of a motion” annexure F

How subsequent amendments may be moved

(Clause 247, Local Government (General) Regulation)

- (2) 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. **It is possible for more than 1 foreshadowed amendment to be proposed.**

NOTE: There cannot be any debate on any foreshadowed amendment until it becomes the amendment.

25. DEBATE AND CLOSING DEBATE

Speaking to and putting the motion

- (1) A Councillor who, during a debate at a meeting of the 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.
(Clause 250 (1), Local Government (General) Regulation)
- (2) A Councillor must declare whether they intend to speak for or against a motion. Once a Councillor has declared their intent, the chair may rule them out of order if they speak contrary to their intention.
- (3) 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.
(Clause 250 (2), Local Government (General) Regulation)
- (4) A Councillor **must not**, without the consent of the Council, **speak more than once** on a motion or an amendment (other than the mover in reply), or for longer than five (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 one (1) minute on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
(Clause 250 (3), Local Government (General) Regulation)
- (5) Where any item is before Council for the second or more time, a maximum of two (2) speakers for and two (2) speakers against will be allowed.
- (6) The time taken to ask and answer questions of staff and other Councillors, and the time taken to raise and address points of order will not be included in a Councillor's five minute speaking allocation.
Note: there is no provision in the meetings regulation for "personal explanations"
- (7) Despite subsections 1 and 3 above a Councillor may move that a motion or an amendment be now put:
(Clause 250(4), Local Government (General) Regulation)
 - 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.
(Clause 250(4) Local Government (General) Regulation).
- (8) The Chairperson must immediately put to the vote, without debate, a motion moved under subsection 8. A seconder is not required for such a motion.
(Clause 250(5), Local Government (General) Regulation)
- (9) 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 section 24(1).

(Clause 250 (6), Local Government (General) Regulation)

- (10) 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.

(Clause 250(7), Local Government (General) Regulation)

26. VOTING

Decision and Voting Entitlements

(Section 371 LGA).

- (1) A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council.

Voting Entitlements of Councillors

(Section 370(1)&(2) LGA).

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

Voting at Council Meetings

(Clause 251, Local Government (General) Regulation)

- (4) A Councillor, who is present at a Council meeting but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- (5) A Councillor must be present at a Council Meeting in order to vote. A Councillor may not vote by proxy.
- (6) Any Councillor who has declared an interest which will not allow him or her to vote shall leave the Meeting.
- (7) If a Councillor, who has voted against a motion put at a Council meeting so requests, the CEO must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.
- (8) The decision of the Chairperson as to the result of a vote is final, unless, the decision is immediately challenged and not fewer than two (2) Councillors rise and demand a division.
- (9) When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately. The CEO 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.
- (10) 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). Voting on planning matters is to be by way of division, in accordance with the provisions of s25(13) and (14) of this code. Despite this, the council may resolve that the voting in any election by Councillors for Lord Mayor or Deputy Lord Mayor is to be by

Voting of Funds

- (11) Motions for the expenditure of funds of works and services other than those already in the management plan shall identify the source of funding or shall be referred for an officer's report advising availability of funds.

Note

Voting and Determining Development Applications

With the commencement of Independent Hearing Assessment Panels, there will be no need for any reference in the Code to voting on or determining development applications or holding on site meetings for Development Applications.

- (12) Voting on all motions for planning decisions will be by way of division. The division will be by way of Councillors standing, when required, to indicate whether they support or oppose a motion. This method may be varied as required at the discretion of the chairperson. Votes will be recorded by the Council minutes clerk and confirmed by the chairperson before proceeding to the next item.
- (13) For the purposes of 13 above, "planning decision" includes decisions relating to:
- a ~~deleted~~
 - b an environmental planning instrument
 - c a development control plan
 - d a development contribution plan
- But does not include the making of an order under Division 2A of Part 6 of the *Environmental Planning and Assessment Act 1979*.

Note: Divisions are not required to be called for amendments. Only motions for planning decisions require the calling of a division. This does not, however, remove a Councillors ability to call for a division under s26 of this code.

27. DUTY OF CHAIR

Lord Mayoral Minutes

(Clause 243, Local Government (General) Regulation)

- (1) If the Lord 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 Lord 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 Lord Mayor) or in a report made by a council employee is, so far as adopted by council, a

- (4) **Local Rule** In the tabling of Lord Mayoral Minutes it would be appropriate for the Lord Mayor to read the purpose and recommendation of the Minute and to speak to it but not read the whole report. Councillors will have the full Minute to read. A seconder to any recommendation in a Lord Mayoral minute is not required.
A copy of the minute is to be distributed to the gallery and press.
- (5) **Local Rule** The full content of Lord Mayoral Minutes shall be included in the Council minutes (per Minute No. 16361).
- (6) In accordance with advice received from the Office of Local Government, Lord Mayoral minutes should not be used to introduce, without notice, matters that are routine (ie not urgent) or need research by the Councillors prior to reaching a decision. These types of matters are best placed on the agenda with the usual period of notice given to councillors.

Chairperson to have precedence

(Clause 237, Local Government (General) Regulation)

- (7) 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.

28. SUSPENSION OF STANDING ORDERS

- (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.
- (2) However, this can happen only if:
- a a motion is passed to suspend standing orders and 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.
- (3) Such a motion can be moved without notice.
- (4) A separate motion and establishment of urgency is required for each new item of proposed business. The only matter to be discussed is the matter for which a vote has been taken and urgency established.
- (5) Despite clause 250 of the Local Government (General) Regulation *(see section 24 of this code)*, only the mover of a motion referred to in subsection 2 above can speak to the motion before it is put.
(Local Government (General) Regulation clause 241 (4))

29. LATE ITEMS AND REPORTS

- (1) Late items are only to be permitted where they relate to items that are already listed on the agenda of a particular Council Meeting. However, in the case of a particularly contentious or legal issue, the matter may be brought

to the attention of Council in the form of a Lord Mayoral Minute.

30. EXTRAORDINARY MEETINGS

(Clause 242, Local Government (General) Regulation)

- (1) Extraordinary meetings are held in extraordinary circumstances or to deal with special business or where there is so much business to be dealt with that an additional meeting is required.
- (2) The Chief Executive Officer must ensure that the agenda for an extraordinary meeting of a council deals only with the matters stated in the notice of the meeting.
- (3) Despite subsection 1 above, 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 suspend standings orders and 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.
- (4) Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.
- (5) Despite clause 250 of the Local Government (General) Regulation *(see section 24 of this code)*, only the mover of a motion referred to in subsections 2 & 3 above can speak to the motion before it is put.

31. ORDER AND DISORDER

(Clause 255, Local Government (General) Regulation)

Questions of order

- (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.

Acts of disorder

(Clause 256, Local Government (General) Regulation)

- (5) 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 (disrespect).
 - f Uses Indecent language (local rule)
- (6) The chairperson may require a Councillor to apologize without reservation for an act of disorder referred to in section 5(a)-(b) above, or
- (7) to withdraw a motion or an amendment referred to in subsection 5(c) above and, where appropriate, to apologize without reservation, or
- (8) to retract and apologize without reservation for an act of disorder referred to in subsections 5(d) ,(e) or (f).
- (9) A Councillor may, as provided Clause of the Local Government (General) Regulation Section 10(2) (a) or (b) of the Local Government Act (*see section 14 of this code, Who is Entitled to attend meetings* ”), be expelled from a meeting of a council for having failed to comply with a requirement under subsections 6-8 above. 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.
- (10) From the Code of Conduct (Section 11 Councillor Misbehaviour), a Councillor who misbehaves at a meeting may be sanctioned under the terms of Section 440 of the Local Government Act (*refer to annexure I*)
- (11) In addition to the terms of section 440, such an action may result from constant interjection whilst another Councillor is addressing the chair.

How disorder at a meeting may be dealt with

(Clause 257, Local Government (General) Regulation)

- (12) 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.
- (13) A member of the public may, as provided by section 10 (2) (a) or (b) of the Local Government Act 1993 (*see section 14 of this code*), be expelled from a meeting of a council for engaging in or having engaged in disorderly conduct at the meeting. Disorderly conduct may include uninvited commenting, shouting or being disruptive.

Power to remove persons from meeting after expulsion

(Clause 258, Local Government (General) Regulation)

- (14) 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 member from the meeting, or
 - b where the council has authorized the person presiding at the meeting to exercise the power of expulsion – immediately after being directed by the person presiding to leave the meeting,
 - c a police officer, or any person authorized 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.

32 DISSENT

- (1) A Councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If this 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.
- (3) 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.
- (4) Despite clause 250 of the Local Government (General) Regulation (see s24 of *this code*), only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.
(*Clause 248, Local Government (General) Regulation*)

33 MATTERS TO BE INCLUDED IN MINUTES OF COUNCIL MEETING

(*Clause 254, Local Government (General) Regulation*)

- (1) The CEO 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.
 - d Additional information supplied by a Council officer which has not been included in the report before Council and which could be viewed as material for Council's consideration of the matter.
 - e Addresses to Council by members of the public and any response given.
- (2) Where a division is called for then the names of the Councillors in favour of or opposed to the motion / amendment will be recorded appropriately.
(*Clause 251(4) Local Government (General) Regulation (Refer to Section 25 (9) of this Code*)
- (3) Further where a councillor requests his/her name be recorded as being opposed to the resolution then such a note shall be included in the minutes

34 RESCISSION MOTIONS

Rescissions

- (1) A rescission motion is to be moved by the first signatory to the motion and failing that person being in attendance, the second signatory to move same, and so on.
- (2) A resolution of Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with this Code.
(Section 372(1) LGA).
- (3) A rescission motion if it is deemed to be urgent by the Chairperson may be dealt with in accordance with Part 2 Section 8 of this Code.
- (4) 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.
(Section 372(2) LGA).
- (5) All Rescission motions will be listed on the next available Council Meeting for consideration.
- (6) It is essential that the Councillors who sign the rescission motion in accordance with this section are in attendance at the meeting where the rescission motion is lodged. Rescission Motions are only valid if the signatories to that motion were present at the meeting at which the item in question was previously considered
Note: (See also section 14– Presence at Meetings)
- (7) If a motion has been negated (**defeated**) by the Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with the Part 2, Section 8 of this Code “Giving Notice of Business”.
(Section 372(3) LGA).
- (8) 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 (**defeated**) by the council, must be signed by three (3) Councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was negated (**defeated**), as the case may be.
(Section 372(4) LGA).
- (9) If a motion to alter or rescind a resolution has been negated (**defeated**), or if a motion which has the same effect as a previously negated (**defeated**) motion, is negated (**defeated**), no similar motion may be brought forward within three (3) months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.
(Section 372(5) LGA).
- (10) 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.
(Section 372(6) LGA)
- (11) The provisions of this section concerning negated (**defeated**) motions do not apply to motions of adjournment.

- (12) Councillors must use the pro forma notice of rescission motion form, ensure that 3 Councillors have signed it and hand it to the Chief Executive Officer prior to the meeting being closed. If the chair does not deem it to be urgent, the resolution will not be carried into effect until the motion is dealt with at the next Council meeting.
- (13) If the notice of rescission motion is handed to the General Manager **after** the meeting has closed, then it will not stop the resolution from being carried into effect until such time that it is considered at a meeting of the Council.
- (14) Prior to the closure of the meeting, the chairperson will announce those rescission motions already received by the General Manager. Failure of the chairperson to do this, however, does not invalidate those already received, nor does it prevent a resolution from being carried into effect if the rescission motion is submitted after the close of the meeting.
- (15) Rescission motions on planning decisions pertaining to development applications or Section 96 applications will have no effect as a notice of determination once issued cannot be withdrawn.

Rescission Motions (Absence of Mover and Seconder from original meeting)

- (16) If a rescission motion is submitted after the meeting then there is nothing in any legislation or guides that prevent any Councillor, not in attendance at the meeting at which the decision was taken to subsequently sign such a rescission motion.

35 QUESTIONS

Questions may be put to Councillors and council employees

(Clause 249, Local Government (General) Regulation)

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

Local Rules

- (5) Responses to any questions by either Councillors or Council Employees should be made through the Chairperson.

- (6) Should the responsible Group Manager wish to comment upon any matter before the Council, the Group Manager should seek the leave of the chairperson to do so.

- (7) Time taken to ask and answer questions is not included in a councillor's allocated time to speak on a motion under Part 4, Section 12.1(3) of this Code

PART 5 – MISCELLANEOUS

36. DISCLOSURE AND MISUSE OF INFORMATION

- (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.
- (2) 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) (LGA) (*see s19 of this code*), 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.
- (3) Subsection 2 above 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 subsections 1 (a) – (e) above, or
 - c disclosure made in circumstances prescribed by the regulations (namely 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 (LGMR CI 412) or
 - d any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with section 12 of the Local Government Act
- (4) This section relates to the release of information available to Councillors arising from attendance at closed meetings.
- (5) 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.
- (6) 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.

37. INSPECTIONS OF THE MINUTES OF A COUNCIL

- (1) An inspection of the minutes of a council is to be carried out under the supervision of the CEO or an employee of the council designated by the CEO to supervise inspections of those minutes. The CEO must ensure that the minutes of the council are kept secure and in safe custody and that no unauthorized person is allowed to interfere with them.
- (2) **Note:** Section 12 of the Local Government Act confers a right (restricted in the case of closed parts of meetings) to inspect the minutes of a council . Council has its open minutes electronically displayed during the meetings and on its website following the meeting. The community is able to access the minutes in this way or by contacting Council or by viewing at all Libraries

38. TAPE RECORDING OF COUNCIL MEETINGS

(Local Government (General) Regulation Clause 273)

- (1) A person may use a tape recorder to record the proceedings of a meeting of a council only with the authority of the council.
- (2) A person may, as provided by section 10 (2) (a) or (b) of the Local Government Act (*see s14 of this code*), be expelled from a meeting 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 authorized for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.
- (4) In this clause, *tape recorder* includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not. **Note** This includes television or any other media purpose

39. WEBCASTING/RECORDING

- (1) The Council will webcast/record its meetings live from January 2017 to enhance the accessibility of Council meetings to the broader City of Parramatta.
- (2) If meetings are webcast they can be viewed live via webcast and downloaded from Council's website for later viewing.
- (3) Council accepts no responsibility for any defamatory or offensive statements."

40. ACCESS TO RECORDS BY COUNCILLORS

- (1) A separate policy entitled "Policy for Interaction Between Councillors and Staff" outlines Councillors rights to information and procedures to be followed.

41. COUNCIL SEAL

(Clause 400, Local Government (General) Regulation)

- (1) The seal of a council must be kept by the Lord Mayor or the CEO, as the council determines.
- (2) **That** the affixation of the Common Seal must be in the presence of the Lord Mayor and the Chief Executive or otherwise in accordance with Clause 400 of the Local Government Regulations (per resolution of Council on 29 January 2014)
- (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 subsection 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 subsection 4 above, 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.

42. 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 formally laid on the table at, or submitted to, the meeting. This section does not apply if the correspondence or reports:
 - a relate to a matter that was received or discussed, or
 - b were formally laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.
- (2) 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) of the Local Government Act 1993 (see s19 of this code), are to be treated as confidential.

ANNEXURE A- CHAIRPERSON OF MEETINGS

Election of Chairman to preside at certain meetings

(Local Government (General) 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 Local Government 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 CEO or, in his or her absence, an employee of the council designated by the CEO to conduct the election, or
 - b if neither of them is present at the meeting or there is no CEO or designated employee—by the person who called the meeting or a person acting on his or her behalf.
- (3) If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- (4) For the purposes of subclause (3), the person conducting the election must:
- a arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
 - b then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- (5) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- (6) Should 2 or more candidates have an equal amount of votes, further election is to be held between those candidates until one candidate has a higher number of votes. Should a stalemate occur, the chairperson is to be determined putting the names of those candidates in a hat / box etc., and having a member of Council staff draw a name from the hat.

ANNEXURE B - PECUNIARY INTEREST

PECUNIARY INTEREST

442 What is a “pecuniary interest”?

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

443 Who has a pecuniary interest?

- (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.

Note. “De facto partner” is defined in section 21C of the *Interpretation Act 1987*.

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

444 What disclosures must be made by a councillor?

A councillor:

- (a) must prepare and submit written returns of interests in accordance with section 449, and
- (b) must disclose pecuniary interests in accordance with section 451.

445 What disclosures must be made by a designated person?

A designated person:

- a. must prepare and submit written returns of interests in accordance with section 449, and
- b. must disclose pecuniary interests in accordance with section 459.

446 What disclosures must be made by a member of a council committee?

- (1) A member of a council committee, other than a committee that is wholly advisory, must disclose pecuniary interests in accordance with section 451.

447 What disclosures must be made by council advisers?

- (1) A person giving advice to the council at a council or council committee meeting must disclose pecuniary interests in accordance with section 456.

448 What interests do not have to be disclosed?

- (1) The following interests do not have to be disclosed for the purposes of this Part:
- (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.

DISCLOSURE OF INTERESTS						
How and when disclosed and nature of interests disclosed	Councillor	Member of council committee	Council advisor	General manager	Senior staff member	Staff member, delegate or committee member, holding "designated person" position (s 441)
• At meetings: Pecuniary interests (ss 451, 456)	✓	✓	✓	x	x	x
• In dealings with council matters: Pecuniary interests (s 459)	x	x	x	✓	✓	✓

PENALTIES FOR BREACH OF DISCLOSURE REQUIREMENTS (S 482)			
Councillor	Committee member	Council adviser	Council employee
<ul style="list-style-type: none"> • Counselling • Reprimand • Suspension from civic office for up to 6 months • Disqualification from civic office for up to 5 years 	<ul style="list-style-type: none"> • Counselling • Reprimand • Suspension from the committee for up to 6 months • Disqualification from membership of any council committee for up to 5 years 	<ul style="list-style-type: none"> • Counselling • Reprimand • Suspension as council advisor for up to 6 months • Disqualification as council advisor for up to 5 years 	<ul style="list-style-type: none"> • Counselling • Reprimand • Recommend taking of disciplinary action by the council • Recommend dismissal

Division 2 Disclosure of interests in written returns

449 Returns disclosing interests of councillors and designated persons

- (1) A councillor or designated person must complete and lodge with the general manager, within 3 months after becoming a councillor or designated person, a return in the form prescribed by the regulations.
- (1A) A person must not lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- (2) A person need not lodge a return within the 3-month period after becoming a councillor or designated person if the person lodged a return in that year or the previous year or if the person ceases to be a councillor or designated person within the 3-month period.
- (3) A councillor or designated person holding that position at 30 June in any year must complete and lodge with the general manager within 3 months after that date a return in the form prescribed by the regulations.
- (4) A person need not lodge a return within the 3-month period after 30 June in a year if the person lodged a return under subsection (1) within 3 months of 30 June in that year.
- (5) Nothing in this section prevents a councillor or designated person from lodging more than one return in any year.
- (6) Nothing in this section or the regulations requires a person to disclose in a return lodged under this section an interest of the person’s spouse or de facto partner or a relative of the person.

450 (Repealed)

450A Register and tabling of returns

- (1) The general manager must keep a register of returns required to be lodged with the general manager under section 449.

- (2) Returns required to be lodged with the general manager under section 449 must be tabled at a meeting of the council, being:
 - (a) in the case of a return lodged in accordance with section 449 (1)—the first meeting held after the last day for lodgement under that subsection, or
 - (b) in the case of a return lodged in accordance with section 449 (3)—the first meeting held after the last day for lodgement under that subsection, or
 - (c) in the case of a return otherwise lodged with the general manager—the first meeting after lodgement.

Division 3 Disclosure of pecuniary interests at meetings

451 Disclosure and presence in meetings

- (1) A councillor or a member of a council committee who has a pecuniary interest in any matter with which 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.

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

452(Repealed)

453 Disclosures to be recorded

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

454 General disclosure

- (1) A general notice given to the general manager in writing by a councillor or a member of a council committee to the effect that the councillor or member, or the councillor's or member's spouse, de facto partner or relative, is:
 - (a) a member, or in the employment, of a specified company or other body, or
 - (b) a partner, or in the employment, of a specified person is, unless and until the notice is withdrawn, sufficient disclosure of the councillor's or member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.

455 (Repealed)

456 Disclosure by adviser

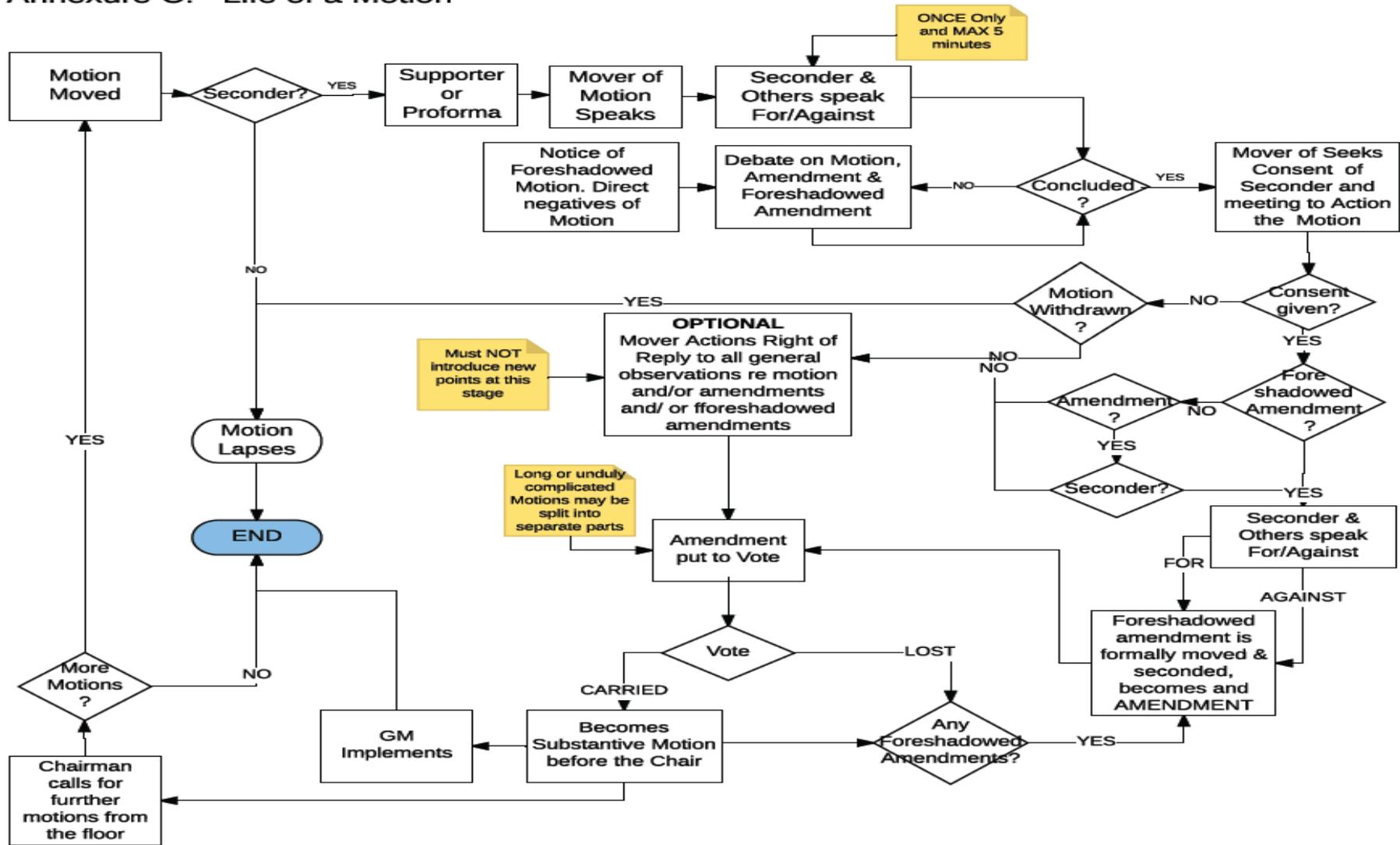
- (1) A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given.
- (2) The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

457 Circumstances in which secs 451 and 456 are not breached

- (1) 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.

Annexure C - Life of a Motion

Annexure C: Life of a Motion



Annexure D - ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 96A

Revocation or modification of development consent

96A Revocation or modification of development consent

(1) If at any time it appears to:

(a) the Secretary, having regard to the provisions of any proposed State environmental planning policy, or

(b) a council (being the consent authority in relation to the development application referred to in this subsection), having regard to the provisions of any proposed local environmental plan,

that any development for which consent under this Division is in force in relation to a development application should not be carried out or completed, or should not be carried out or completed except with modifications, the Secretary or council may, by instrument in writing, revoke or modify that consent.

(2) This section applies to complying development for which a complying development certificate has been issued in the same way as it applies to development for which development consent has been granted and so applies to enable a council to revoke or modify a complying development certificate whether the certificate was issued by the council or by an accredited certifier.

(3) Before revoking or modifying the consent, the Secretary or council must:

(a) by notice in writing inform, in accordance with the regulations:

(i) each person who in the Secretary's or council's opinion will be adversely affected by the revocation or modification of the consent, and

(ii) such persons as may be prescribed by the regulations,

of the intention to revoke or modify the consent, and

(b) afford each such person the opportunity of appearing before the Secretary or council, or a person appointed by the Secretary or council, to show cause why the revocation or modification should not be effected.

(4) The revocation or modification of a development consent takes effect, subject to this section, from the date on which the instrument referred to in subsection (1) is served on the owner of the land to which the consent applies.

(5) Within 3 months after the date on which the revocation or modification of the consent takes effect, the applicant for the consent, or any other person entitled to

rely on the consent, who is aggrieved by the revocation or modification may appeal to the Court, and the Court may determine the appeal.

(6) The Court may determine the appeal by affirming, varying or cancelling the instrument of revocation or modification.

(7) If a development consent is revoked or modified under this section, a person aggrieved by the revocation or modification is entitled to recover from:

(a) the Government of New South Wales-if the Secretary is responsible for the issue of the instrument of revocation or modification, or

(b) the council-if the council is responsible for the issue of that instrument,

compensation for expenditure incurred pursuant to the consent during the period between the date on which the consent becomes effective and the date of service of the notice under subsection (3) which expenditure is rendered abortive by the revocation or modification of that consent.

(8) The Secretary or council must, on or as soon as practicable after the date on which the instrument referred to in subsection (1) is served on the owner of the land referred to in subsection (4), cause a copy of the instrument to be sent to each person who is, in the Secretary's or council's opinion, likely to be disadvantaged by the revocation or modification of the consent.

(9) This section does not apply to or in respect of a consent granted by the Court or by the Minister.

Annexure E - Extracts from the Local Government Act

Local Government Act 1993 No 30

9 Public notice of meetings

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

439 Conduct of councillors, staff, delegates and administrators

- (1) Every councillor, member of staff of a council and delegate of a council must act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions under this or any other Act.
- (2) Although this section places certain duties on councillors, members of staff of a council and delegates of a council, nothing in this section gives rise to, or can be taken into account in, any civil cause of action.
- (3) This section applies to an administrator of a council (other than an administrator appointed by the Minister for Primary Industries under section 66) in the same way as it applies to a councillor.

440 Codes of conduct

- (1) The regulations may prescribe a model code of conduct (the ***model code***) applicable to councillors, members of staff of councils and delegates of councils.
- (2) Without limiting what may be included in the model code, the model code may:
 - (a) relate to any conduct (whether by way of act or omission) of a councillor,

Extracts from the Local Government Act

- member of staff or delegate in carrying out his or her functions that is likely to bring the council or holders of civic office into disrepute, and
- (b) in particular, contain provisions for or with respect to conduct specified in Schedule 6A.
- (3) A council must adopt a code of conduct (the **adopted code**) that incorporates the provisions of the model code. The adopted code may include provisions that supplement the model code.
- (4) A council's adopted code has no effect to the extent that it is inconsistent with the model code as in force for the time being.
- (5) Councillors, members of staff and delegates of a council must comply with the applicable provisions of:
- (a) the council's adopted code, except to the extent of any inconsistency with the model code as in force for the time being, and
- (b) the model code as in force for the time being, to the extent that:
- (i) the council has not adopted a code of conduct, or
- (ii) the adopted code is inconsistent with the model code, or
- (iii) the model code contains provisions or requirements not included in the adopted code.
- (6) A provision of a council's adopted code is not inconsistent with the model code merely because the provision makes a requirement of the model code more onerous for persons required to observe the requirement.
- (7) A council must, within 12 months after each ordinary election, review its adopted code and make such adjustments as it considers appropriate and as are consistent with this section.
- (8) Nothing in this section or such a code gives rise to, or can be taken into account in, any civil cause of action, but nothing in this section affects rights or liabilities arising apart from this section.
- (9) This section applies to an administrator of a council (other than an administrator appointed by the Minister for Primary Industries under section 66) in the same way as it applies to a councillor.

Annexure F – Independent Hearing and Assessment Panel Charter



City of Parramatta Council Independent Hearing and Assessment Panel

Charter

November 2016

1. Structure

1.1 The City of Parramatta Council Independent Hearing and Assessment Panel (the Panel) is an entity comprising two separate but related bodies, being:-

- (a) a **Determining Body**, with delegated authority to consider and determine development applications, s96 modifications and s82A and s96AB reviews of applications, and consider and make recommendations about Planning Proposals, and
- (b) a **Review Body**, with delegated authority to consider and determine S82A and S96AB reviews of determinations made by the Determining Body.

1.2 For the purposes of the Environmental Planning and Assessment Act, the Determining Body is subordinate to the Review Body.

1.3 Any reference in this Charter to the Panel is a reference to either or both of the above bodies comprising the City of Parramatta Council Independent Hearing and Assessment Panel.

2. Functions

2.1 The functions of the Determining Body of the Panel are to:-

- a) Provide an independent and open forum for interested persons and groups to hear and make submissions about development proposals referred for determination and planning proposals referred for recommendation;
- b) Provide increased transparency of process and expert assessment of development and planning proposals referred; and
- c) Consider and determine development applications, s96 modifications and s82A, s96AB reviews of applications referred to it,

- d) Consider and make recommendations to the Council on planning proposals referred to it; and
- e) Achieve development outcomes consistent with the relevant legislation and the relevant planning controls, established town planning principles and the strategic direction of the City.

2.2 The functions of the Review Body of the Panel are to:-

- a) Provide an independent and open forum for interested persons and groups to hear and make submissions about S82A and S96AB reviews of determinations made by the Determining Body;
- b) Provide increased transparency of process and expert assessment of the S82A and S96AB reviews of determinations made by the Determining Body; and
- c) Consider and determine s82A and s96AB reviews of determinations made by the Determining Body.
- (d) Achieve development outcomes consistent with the relevant legislation and planning controls.

3 Constitution of the Panel

3.1 Members

The Panel consists of the following members with the following qualifications and appointed pursuant to this Charter:-

- a. A lawyer who is currently admitted or eligible for admission to practice law in New South Wales as Barrister or Solicitor; or non-lawyers but professionals with exceptional levels of experience such as retired judges or Land and Environment Court Commissioners to apply for the position, and
- b. A professional expert with a university degree in urban design, planning or architecture, heritage, land economics, traffic and transport, or engineering; and
- c. A professional expert with a university degree in environmental science or relevant environmental fields; and
- d. A pool of three (3) community representatives and three alternates.
- e. The membership of the Review Body shall not include a member of the Determining Body that made the original decision.

3.2 Appointment

Members of the Panel shall be appointed by the Council by the Memorandum of Understanding (Schedule 1) signed by each member and the General Manager.

3.3 Term

The term of the members of Panel appointed by the General Manager shall be for a period of three (3) years with an option to extend the term again for a further 2 years.

3.4 Remuneration

A member or an alternate member is entitled to be paid such remuneration as the General Manager shall from time to time determine in respect of the member.

3.5 Chairperson

The Chairperson of the Panel shall be the lawyer member. Should the lawyer not be present/available for a meeting the members attending shall elect a Chairperson.

3.6 Alternates

(a) The General Manager may, from time to time, appoint a person to be the alternate to a member, and may revoke any such appointment, only after consultation with the Council.

(b) Whilst acting in place of a member, the alternate member has all the functions of the member and is taken to be a member.

3.7 Vacancies

The office of a member becomes vacant if the member:

- (a) dies, or
- (b) completes a term of office and is not reappointed, or
- (c) resigns the office by instrument in writing addressed to the General Manager, or
- (d) after consultation with the Council, is removed by the General Manager from office for any or no reason and without notice.

3.8 Filling of Vacancies

If the office of a member becomes vacant, a person may, subject to this charter, be appointed to fill the vacancy.

3.9 Meetings

(a) A meeting of the Panel will generally consist of four (4) members, i.e. the lawyer, the planner/architect, the environmental expert and one (1) community representative. However, when deemed necessary by the Director Strategic Outcomes and Development, the panel may comprise five (5) members to ensure adequate and appropriate expertise.

(b) Meetings shall occur within 30 days of referral by the General Manager.

3.10 Quorum

A minimum of three (3) Panel members shall form a quorum for a meeting.

3.11 Meeting and Other Processes

(a) The Panel may, subject to this Charter and any guidelines issued by the General Manager in respect of the Panel as in force from time to time, determine its own procedure.

(b) The Panel is not bound by the rules of evidence and may inquire into and inform itself on any matter in such manner as it thinks fit, subject to the rules of natural justice (the rules of procedural fairness).

(c) The Panel is to act with as little formality as the circumstances of the case permit and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms.

(d) Proceedings of the Panel shall be open to the public. However, the Panel may close part of a public meeting to the public where the Panel is of the opinion that such action is strictly necessary in order to protect commercial information of a confidential nature. In addition, for the purpose of enabling the Panel to convene in private for the express purpose of deciding upon its findings, conclusions and decisions, deliberations and decisions of the Panel shall be conducted and made in closed session following the conclusion of the Panel hearing submissions on behalf of the applicant and any other interested parties.

(e) Where, at any public meeting, there are a large number of objectors with a common interest, the Panel may, in its absolute discretion, hear a representative of those persons with a view to discharging its responsibilities in a timely manner.

(f) The Panel may, in its absolute discretion, but otherwise fairly and consistently, impose time limits on oral presentations by persons other than members of the panel with a view to discharging its responsibilities in a timely manner.

(g) Each member of the Panel, unless otherwise disqualified to vote, is entitled to one vote. However, the person presiding at a meeting of the Panel has, in the event of an equality of votes, a second or casting vote.

(h) The meetings and other procedures of the Panel will be undertaken in accordance with any guideline issued by the General Manager from time to time. Where there are no such guidelines, or where some matter is not covered by the guidelines, regard shall be had to the statutory provisions otherwise relevantly applicable to the conduct of NSW local council meetings to the extent to which they are deemed by the Chairperson to be appropriate to the conduct of meetings of the Panel as well as the ordinary law of meetings to the extent to which that law is not inconsistent with the foregoing.

(i) At its absolute discretion the panel may make site inspections of properties the subject of applications and/or submissions. These inspections are for the benefit of the Panel and no discussions will be held with applicant/s or persons that have made submissions at the site inspections

(j) The General Manager shall make available relevant staff to the panel for inspections and meetings to answer questions and clarify issues.

(k) An officer of the City of Parramatta Council appointed by the General Manager shall act as secretary to the Panel and may be present at any meeting of the Parramatta Independent Hearing and Assessment Panel. In addition the General Manager may, if in the opinion of the General Manager it is necessary or advisable so to do, provide other administrative support to the Panel whether by way of the provision of staff or otherwise.

3.12 Determinations/Decisions

(a) Determinations and any relevant decision of the Panel shall be made by a majority of votes of members present at a meeting and voting. If votes are tied the Chairperson will have the casting vote.

(b) Voting is to be recorded for the public record.

4 Obligations of Members

4.1 All Panel member/s are required to comply with the following conditions of engagement detailed below. These conditions are based on Council's assessment of minimum requirements needed to deliver an appropriate standard of service.

(a) Panel member/s must perform their obligations under this agreement faithfully and diligently and must, at all times, act in accordance with the Code of Conduct (Schedule 2) and the requirements of the Panel Charter. If Panel member/s do not comply with the Code of Conduct or the Panel Charter, the General Manager may terminate the Panel member's appointment without notice.

(b) Outside of the meeting process Panel members must immediately report in writing to the General Manager any contact or approach by any applicant, resident, consultant, technical expert, Councillor or unauthorised staff member in connection with the Panel functions.

(c) Except as required to properly perform their duties, Panel member/s must not disclose any confidential information (as advised by Council) obtained in connection with the Panel functions.

(d) Panel member/s shall not make oral or written statements of any description to any newspaper, television station or radio network or to any person associated with such organizations, in connection with any work undertaken in connection with the Panel functions.

(e) Panel member/s may communicate with senior staff of City of Parramatta Council or other staff nominated by the General Manager in a protocol for interaction between panel members and staff.

(f) Panel member/s must attend all meetings reasonably required by the General Manager and the Director Strategic Outcomes and Development.

(g) Panel member/s will have read and be familiar with the documents provided by Council prior to attending a Panel meeting.

(h) The relationship between the Council and the Panel member/s is that of a client and independent contractor, and nothing shall be taken as constituting the Panel member/s or any of their employees as an employee or servant of the Council.

(i) Each Panel member shall complete their Pecuniary Interest Declaration Return (Return) and submit it to the General Manager upon appointment to the panel and shall also submit an annual Return in July each year covering the period to 30 June of the previous 12 months.

4.2 Nothing causes the Panel members or any of their employees or agents:

(a) To be the legal representative, agent, joint venturer or partner of the Council; or

(b) To have authority to assume or create any obligations of any kind or to make any representations or warranties on behalf of the Council or to bind the Council in any respect (unless in exercising its delegations in the determination of development applications).

5 Matters to be referred to the Panel

The Determining Body

5.1 Development applications that are not otherwise determined under the delegation of the General Manager shall be referred to the Panel for consideration and determination where they:-

- a) are for a Council proposal, or a proposal that Council has had a recent pecuniary interest, of value greater than one hundred thousand dollars;
- b) are for individual Councillors, State or Federal members of Parliament or Council staff;
- c) have received 10 or more individual objections from not less than 10 individual households;
- d) are proposing to vary a development standard by more than 10%.

5.2 Applications for review of determination pursuant to s.82A or s96AB of the Environmental Planning and Assessment Act other than where the decision is made by the Determining Body.

5.3 Applications to modify development consents under s.96(2) and 96AA(1) where the terms of 5.1.

5.4 All Planning proposals, before gateway and make a recommendation to Council as to how these shall proceed.

5.5 Planning proposals after exhibition where objections have been received from either members of the public or government agency referral bodies and make a recommendation to Council as to how the Planning Proposal should proceed.

The Review Body

5.6 All s82A and s96AB reviews of determinations made by the Determining Body.

6 Additional Documentation

The following documents are to be read in conjunction with this Charter:

- Schedule (1) Panel Memorandum of Understanding
- Schedule (2) Guidelines for the Operation of the City of Parramatta Council IHAP
- Schedule (3) Code of Conduct – City of Parramatta Council
- Schedule (4) Application to Address Panel Guidelines

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