

QUEANBEYAN-PALERANG REGIONAL COUNCIL

Council Meeting Attachment

20 SEPTEMBER 2017

ITEM 4.10 CODE OF CONDUCT AND CODE OF MEETING PRACTICE

ATTACHMENT 1 CODE OF MEETING PRACTICE - AMENDED



CODE OF MEETING PRACTICE

Revised: 27 July 2016

Adopted: 27 July 2016

Updated: 25 January 2017 – Terms of Reference – Planning and Strategy Committee
of the Whole appended

Amended: 20 September 2017 – *amendments shown italicised, bold and blue*

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PART 1 - PRELIMINARY

1. Citation

- 1.1. This Code may be cited as the *Queanbeyan-Palerang Regional Council Code of Meeting Practice 2016*.

2. Definitions

- 2.1. In this Code:

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

2.1.2. chairperson:

2.1.2.1. in relation to a meeting of the Council - means the person presiding at the meeting as provided by section 369 of the Act; and

2.1.2.2. in relation to a meeting of a committee - means the person presiding at the meeting as provided by clause 44 of this Code

2.1.3. **committee** means a committee established under clause 41, or the Council when it has resolved itself into a committee of the whole

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

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

2.1.4.2. the spouse or the de facto partner of the person or of a person referred to in paragraph 2.1.4.1

2.1.5. **the Act** means the *Local Government Act 1993*

2.1.6. **the Code** means the *Queanbeyan-Palerang Regional Council Code of Meeting Practice 2016*

2.1.7. **the Regulation** means the *Local Government (Meetings) Regulation 1999*.

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

3. Act and Regulation

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

- 3.2. It incorporates relevant provisions of the Regulation and the Act.

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

4. Notes to text

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

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

5. Frequency, venue and timing of meetings of the Council

- 5.1. The Council is required to meet at least 10 times each year, each time in a different month.
- 5.2. The Council shall, by resolution, set the time, date and place of ordinary meetings of the Council.
- 5.3. In selecting a venue, Council should ensure that it:
 - is accessible for people with disabilities
 - is adequate in size
 - has adequate facilities for the convenience and comfort of Councillors, staff and members of the public
 - has suitable acoustic properties.
- 5.4. In selecting a time, Council's foremost consideration should be the convenience of Councillors and should take into account:
 - employment or business commitments
 - carer responsibilities
 - safety issues (e.g. long travel distances at night).
- 5.5. Notwithstanding Clause 5.4 above, there may be occasions when Council may set the time and place of a meeting to suit the location of particular items of business which have particular impact upon specific areas of the Queanbeyan-Palerang local government area.

6. Extraordinary meetings

- 6.1. At least two Councillors, one of whom may be the Mayor, and the General Manager can make a written request to the Mayor to hold an extraordinary council meeting.
- 6.2. The Mayor may not call extraordinary meetings by themselves without having a written request with another Councillor's signature.
- 6.3. The Mayor and the General Manager must call the extraordinary meeting which is to be held as soon as practical, but within 14 days after the request is made.
- 6.4. Extraordinary meetings are usually held to deal with special business or where there is so much business to be dealt with that an additional meeting is required.

7. Public Notice of Meetings

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

8. Notice of meetings to Councillors

- 8.1. The General Manager, or in the absence of the General Manager, an employee designated by the General Manager of the Council must send to each Councillor, at least three 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.
- 8.2. Notice of less than three days may be given of an extraordinary meeting called in an emergency, but in no case shall notice of less than one day be given.
- 8.3. For the purpose of this clause, the sending of notice of meetings shall be either by postage to the last known address, hand delivery to the residential address, facsimile, email, other electronic means or by means as agreed to with individual Councillors.

9. Quorum

- 9.1. The quorum for a meeting of the Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office.

10. What happens when a quorum is not present

- 10.1. A meeting of the Council must be adjourned if a quorum is not present:
 - 10.1.1. within half an hour after the time designated for the holding of the meeting;
or
 - 10.1.2. at any time during the meeting.
- 10.2. In either case, the meeting must be adjourned to a time, date and place fixed:
 - 10.2.1. by the chairperson; or
 - 10.2.2. in his or her absence - by the majority of the Councillors present; or
 - 10.2.3. failing that, by the General Manager, or in the absence of the General Manager, an employee designated by the General Manager.

- 10.3. The General Manager, or in the absence of the General Manager, an employee designated by the General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the Councillors present.

11. Presence at Council meetings

- 11.1 Councillors who are unable to attend a meeting must seek leave from that meeting by submitting to the General Manager a request for leave of absence, preferably in writing, or by notice given at a preceding meeting, stating the date of the meeting for which leave of absence is requested and the reason for the absence.

PART 3 - PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

12. Chairperson of Council meetings

- 12.1. The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor presides at meetings of the Council.
- 12.2. If the Mayor and the Deputy Mayor are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council.
- 12.3. If no chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

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

- 12.4. The election must be conducted:
 - 12.4.1. by the General Manager, or in the absence of the General Manager, an employee designated by the General Manager to conduct the election; or
 - 12.4.2. if neither of them is present at the meeting or there is no General Manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.
- 12.5. When two or more candidates receive an equal highest number of votes at the election of Chairperson, the Chairperson is chosen by lot.
- 12.6. For the purposes of clause 12.5, the method of conducting the choosing by lot is described in Schedule 1 of this Code.

13. Chairperson to have precedence

- 13.1. When the Chairperson rises or speaks during a meeting of the Council:
 - 13.1.1. any Councillor or any other person then speaking or seeking to speak must immediately resume their seat; and
 - 13.1.2. every Councillor or any other person present must be silent to enable the Chairperson to be heard without interruption.

14. Chairperson's duty with respect to motions

- 14.1. It is the duty of the Chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting.

- 14.2. The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- 14.3. Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.

15. Minutes

- 15.1. Council must ensure that full and accurate minutes are kept of the proceedings of each meeting of Council.
- 15.2. In adopting the minutes of previous meetings, Council should confine its consideration of the minutes to the question of whether they accurately reflect the proceedings of that meeting.
- 15.3. The minutes must, when they have been confirmed at a subsequent meeting of Council, be signed by the Chairperson of that subsequent meeting. [section 375].
- 15.4. The General Manager must ensure that the minutes of Council meetings record:
 - 15.4.1. all successful and unsuccessful motions and resolutions (including the grounds on which a meeting is closed to the public);
 - 15.4.2. successful and unsuccessful amendments;
 - 15.4.3. attendance of Councillors;
 - 15.4.4. declarations of pecuniary interest and conflicts of interest by Councillors;
 - 15.4.5. votes on motions, amendments, contrary motions and divisions;
 - 15.4.6. circumstances relating to the absence of a quorum at or arising during a meeting, together with the names of the Councillors present;
 - 15.4.7. the names of the mover and the seconder of a motion and/or amendment; the names of all Councillors who voted in favour or against a motion or an amendment;
 - 15.4.8. procedural matters during the meeting, such as moving in and out of committee;
 - 15.4.9. points of order raised and their rulings.
- 15.5. Any entries in the minute book found to be incorrect, must not be altered or erased. Any mistake or omission will be the subject of a resolution at, and recorded in the minutes of, a subsequent meeting.

- 15.6. Any business arising from consideration of the minutes of a previous meeting does not permit a matter to be the subject of further resolutions at that meeting.
- 15.7. On each sheet of the Council minute book there will be placed a footer setting out:
- 15.7.1. the nature of the meeting;
 - 15.7.2. the date of the meeting; and
 - 15.7.3. page number.

16. Order of business

- 16.1. At a meeting of the Council (other than an extraordinary meeting), the general order of business is (except as provided by this Code) such as the Council has fixed by resolution passed at any previous meeting or, if no such resolution has been passed, in accordance with Schedule 2 of this Code.
- 16.2. The order of business fixed under clause 16.1 should be adhered to. It may only be altered in exceptional circumstances if a motion to that effect, which can be moved without notice, is carried.
- 16.3. Despite clause 30, only the mover of a motion referred to in clause 16.2 may speak to the motion before it is put.

17. Agenda for Council meetings

- 17.1. The General Manager, or in the absence of the General Manager, an employee designated by the General Manager must ensure that the agenda for a meeting of the Council states:
- 17.1.1. all matters to be dealt with arising out of the proceedings of former meetings of the Council; and
 - 17.1.2. if the Mayor (or the Deputy Mayor if acting for the Mayor) is the Chairperson - any business that the Chairperson may decide to put before the meeting without notice; and
 - 17.1.3. any business of which due notice has been given.
- 17.2. The General Manager, or in the absence of the General Manager, an employee designated by the General Manager must cause the agenda for a meeting of the Council prepared as soon as practicable before the meeting.
- 17.3. If, in the opinion of the General Manager, or in the absence of the General Manager, an employee designated by the General Manager, business to be transacted at a meeting of the Council is a kind of business referred to in section 10(a) of the Act, the business may be included in a confidential agenda. All other business to be transacted at the meeting must be included in an ordinary agenda.

- 17.4. If a confidential agenda is prepared for a kind of business referred to in clause 61.2, the business must be referred to in the ordinary agenda prepared for the same meeting.
- 17.5. If notice has been given of an item of business on the agenda and subsequently needs to be removed or deferred, Council can only remove that item by way of resolution at the meeting to defer the business to another meeting or to not consider the business, depending on the circumstances.

18. Giving notice of business

- 18.1. The Council must not transact business at a meeting of the Council:
- 18.1.1. unless a Councillor has given notice of the business in writing by noon of the **Wednesday**, one week immediately preceding the meeting; and
 - 18.1.2. unless notice of business has been sent to the Councillors at least by the Friday before the meeting, or, in the event of an extraordinary meeting called in an emergency, at least one day.
- 18.2. Clause 18.1 does not apply to:
- 18.2.1. reports of committees of the Council;
 - 18.2.2. reports from officers which in the opinion of the Chairperson or the General Manager are urgent; and
 - 18.2.3. reports from officers placed on the business pursuant to a decision of a committee that additional information be provided to the Council in relation to a matter before the committee.
 - 18.2.4. business that is already before (or directly relates to a matter that is already before) the Council.
 - 18.2.5. the election of a Chairperson.
 - 18.2.6. a Mayoral Minute.
- 18.3. Despite clause 18.1, business may be transacted at a meeting of the Council when due notice of the business has not been given to Councillors, but only if:
- 18.3.1. a motion is passed to have the business transacted at the meeting; and
 - 18.3.2. the motion is one that can be moved without notice where the chairperson rules it to be of great urgency;

- 18.4. Despite clause 30, only the mover of a motion referred to in clause 18.3 can speak to the motion before it is put.

19. Agenda for extraordinary meeting

- 19.1. The General Manager, or in the absence of the General Manager, an employee designated by the General Manager must ensure that the agenda for an extraordinary meeting of a council deals only with the matters stated in the notice of the meeting.
- 19.2. Despite clause 19.1, business may be transacted at an extraordinary meeting of Council even though due notice of the business has not been given to the Councillors. However this can happen only if:
- 19.2.1. a motion is passed to have the business transacted at the meeting, and
 - 19.2.2. the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.

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

- 19.3. Despite clause 30, only the mover of a motion referred to in clause 19.2 can speak to the motion before it is put.

20. Mayoral Minute

- 20.1. If the Mayor (or the Deputy Mayor, if acting for the Mayor) is the Chairperson at a meeting of Council, the Chairperson is, by minute signed by the Chairperson, entitled to put to the meeting any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.
- 20.2. Such a minute, when put to the meeting, takes precedence over all business on the Council's agenda for the meeting. The Chairperson (but only if the Chairperson is the Mayor, or the Deputy Mayor, if acting for the Mayor) may move the adoption of the minute without the motion being seconded.
- 20.3. A recommendation made in a minute of the Chairperson (being the Mayor, or Deputy Mayor, if acting for the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council.

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

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

21.1.1. is laid on the table at that meeting, and

21.1.2. is subsequently available for the information of Councillors at all reasonable times.

22. Notice of motion - absence of mover

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

22.1.1. any other Councillor may move the motion at the meeting; or

22.1.2. the Chairperson may defer the motion until the next meeting of the Council at which the motion can be considered.

23. Motions to be seconded

23.1. A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the Chairperson to speak to the motion before calling for the motion to be seconded. This clause is subject to clauses 20.2 and 30.5.

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

23.3. The Chairperson may allow questions to be asked on the subject matter before accepting a motion and in the case of the adoption of committee minutes, questions will be taken on any recommendation prior to a motion.

23.4. Motions to accept committee minutes may be modified by individual members requesting specific recommendations to be withdrawn if the member intends to move a motion which is different from the recommendation from the committee.

24. How subsequent amendments may be moved

24.1. If an amendment has been accepted or rejected, a further amendment can be moved to the motion in its original or amended form (as the case may be), and so on, but no more than one motion and one proposed amendment can be before the Council at any one time.

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

- 24.3. It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.
- 24.4. An intention by a Councillor to substantially alter the purpose of a motion on the table may be foreshadowed during debate as a contrary motion, and shall only be formally moved as a motion and considered if the original motion or an amendment to it is lost.

25. Motions of dissent

- 25.1. A Councillor can, without notice, move to dissent from the ruling of the Chairperson on a point of order. If that happens, the Chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 25.2. If a motion of dissent is carried, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 25.3. Despite clause 30, 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.

26. Notices of censure

- 26.1. Council may by resolution at a meeting formally censure a Councillor for misbehaviour.
- 26.2. A formal censure resolution may not be passed except by a motion to that effect of which notice has been duly given in accordance with regulations made under s.360 of the *Local Government Act 1993*.

27. Petitions presented to the Council

- 27.1. Letters, submissions or petitions must not be presented to Councillors at the meeting if they relate to items on that meeting's business which require a decision to be made.
- 27.2. Letters, submissions or petitions may be presented to Councillors at the meeting if they relate to items that are not on that meeting's business.

28. Councillors' questions

- 28.1. At all ordinary Council meetings, each Councillor may ask questions for the next Council meeting under the section of the business paper designated for that purpose.
- 28.2. There is no limit to the number of questions that may be placed on notice by a Councillor at a meeting.

- 28.3. Councillors may not make statements in the item of business known as "Councillors' questions".
- 28.4. Questions for the next meeting should relate to questions concerning items not on the business paper of the meeting where the question is raised.
- 28.5. While questions asked in accordance with Clause 28.1 are done so on the understanding that the answers will be provided at the following meeting, the Mayor or Chairperson may permit an answer, but no debate, being given straight away, if it makes sense to do so.
- 28.6. Councillors' question for the next meeting and responses shall be included in the next meeting's business paper, or if this is not possible, the one following the next, or an explanation given as to the reasons for delay and anticipated time of final response.
- 28.7. These questions and subsequent reports responding to the questions are not subject to discussion, debate or public address at the meeting asked and/or answered.
- 28.8. This clause does not apply to an extraordinary meeting of Council.
- 28.9. Nothing in this clause affects questions being asked, with the leave of the Mayor or Chairperson, relevant to any matter under discussion at a meeting.

29. Mode of address

- 29.1. Councillors shall at all times address other Councillors by their official designation, as Mayor or Councillor, as the case may be.
- 29.2. When addressing a meeting of Council, a councillor must, unless the chairperson states otherwise:
 - (a). stand; and
 - (b). direct their address through the chairperson.

30. Limitation as to number of speeches

- 30.1. 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.
- 30.2. A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- 30.3. A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than five 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 five minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 30.4. Despite clauses 30.1 and 30.2, a Councillor may move that a motion or an amendment be now put if:

- 30.4.1. the mover of the motion or amendment has spoken in favour of it and no other Councillor expresses an intention to speak against it, or
- 30.4.2. at least two Councillors have spoken in favour of a motion or amendment and at least two Councillors have spoken against it.
- 30.5. The Chairperson must immediately put to the vote, without debate, a motion moved under subclause 30.4. A seconder is not required for such a motion.
- 30.6. If a motion that the original motion or an amendment be now put is passed, the Chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the motion has exercised their right of reply under clause 30.1.
- 30.7. If a motion that the original motion or amendment be now put is rejected, the Chairperson must allow the debate on the original motion or amendment to be resumed.

31. Motions put without debate

- 31.1. Any motion or recommendation before the Council may be put to the vote if the mover of a motion or amendment has spoken in favour and no Councillor indicates a wish to speak against.

32. Voting at Council meetings

- 32.1. Each Councillor is entitled to one vote.
- 32.2. The Chairperson has, in the event of an equality of votes, a second or casting vote.
- 32.3. A Councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

Note: *This subclause does not apply to a Councillor who does not vote because they have declared a pecuniary interest in the subject matter of the motion.*

- 32.4. The decision of the Chairperson as to the result of a vote is final, unless:
- 32.4.1. in the case where a vote has been declared on the voices, a Councillor immediately requests a show of hands, or
 - 32.4.2. the decision is immediately challenged and not fewer than two Councillors demand a division.
- 32.5. When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately. The General Manager, or in the absence of the General Manager, an employee designated by the General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes.
- 32.6. Voting at a Council meeting, including voting in any election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in any election by Councillors for Mayor or Deputy Mayor is to be by secret ballot.

33. Resolutions passed at closed meetings to be made public

- 33.1. If 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 is ended [Clause 253 of the *Local Government (General) Regulation 2005*].

34. Decisions of the Council

- 34.1. 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.

35. Rescinding or altering resolutions

- 35.1. A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with clause 17.
- 35.2. If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice must also be given of the proposed further motion.
- 35.3. If a notice of motion to rescind or alter a resolution is given:
- 35.3.1. at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission or alteration has been dealt with; or
 - 35.3.2. at any time after the meeting at which the resolution is carried, no further action to carry the resolution into effect may be taken after receipt of the notice of motion until the motion of rescission or alteration has been dealt with.

- 35.4. In the case of a motion of alteration, clause 35.3 applies only to the extent that the resolution of Council would be affected by the motion of alteration, if it is carried.
- 35.5. If a motion has been negated by the Council, a motion having the same effect must not be considered unless notice of it has duly been given in accordance with clause 17.
- 35.6. A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council, must be signed by at least three Councillors if less than three months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- 35.7. If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within three months. This subclause may not be evaded by substituting a motion differently worded, but in principle the same.
- 35.8. A motion to which this clause applies may be moved on the report of a committee of the Council and any such report must be recorded in the minutes.
- 35.9. The provisions of this clause concerning negated motions do not apply to motions of adjournment.
- 35.10. Notices of motions of rescission are to be dealt with prior to notices of motion at all meetings of Council.

36. Motions of adjournment

- 36.1. Debate shall not be permitted on any motion for adjournment of a meeting of the Council.
- 36.2. If a motion for adjournment is negated, the business of the meeting shall proceed, and it shall not be in order for any Councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being negated.
- 36.3. A motion for adjournment may specify the time, date and place of the adjourned meeting; however, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the Chairperson shall make a determination with respect to whichever of these has not been specified.

PART 4 - KEEPING ORDER AT MEETINGS

37. Questions of order

- 37.1. 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.
- 37.2. 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.
- 37.3. 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.
- 37.4. The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

38. Acts of disorder

- 38.1. A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a committee of the Council:
 - 38.1.1. contravenes the Act, any regulation in force under the Act or this Code; or
 - 38.1.2. assaults or threatens to assault another Councillor or person present at the meeting; or
 - 38.1.3. 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
 - 38.1.4. insults or makes personal reflections on or imputes improper motives to any other Councillor; or
 - 38.1.5. says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or committee into contempt; or
 - 38.1.6. reads at length from any correspondence, report or other document, without the leave of the Council.
- 38.2. The Chairperson may require a Councillor:
 - 38.2.1. to apologise without reservation for an act of disorder referred to in clause 38.1.1 or 38.1.2 or

- 38.2.2. to withdraw a motion or an amendment referred to in clause 38.1.3 and, where appropriate, to apologise without reservation; or
- 38.2.3. to retract and apologise without reservation for an act of disorder referred to in clause 38.1.4 or 38.1.5.
- 38.3. A Councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of a Council for having failed to comply with a requirement made under clause 37.2. The expulsion of a Councillor under this subclause does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

39. How disorder at a meeting may be dealt with

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

40. Power to remove persons from a meeting

- 40.1. If a meeting of the Council or committee of the Council resolves to expel from the meeting a Councillor for failing to comply with a requirement made under clause 37 or a member of the public for disorderly conduct and the Councillor or member of the public fails to leave the meeting immediately after the resolution is passed, a police officer, or any person authorised by the Council or committee for the purpose, may remove the person from the meeting and, if necessary, restrain the person from re- entering the place where the meeting is being held.

PART 5 - COUNCIL COMMITTEES

41. Committee of the whole

- 41.1. The Council may resolve itself into a committee of the whole to consider any matter before the Council.
- 41.2. All the provisions of this Code relating to meetings of the Council, so far as they are applicable, extend to and govern the proceedings of a committee of the whole, except the provision of limiting the number and duration of speeches.
- 41.3. The General Manager, or in the absence of the General Manager, an employee designated by the General Manager is responsible for reporting to the Council proceedings in a committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- 41.4. The Council must ensure that a report of the proceedings is recorded in the Council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed.
- 41.5. If a recommendation from Committee of the Whole is moved, seconded and carried in committee, it should be immediately adopted by resolution of council without further debate, upon return to the ordinary or extraordinary meeting.

42. Council may establish committees

- 42.1. Council may, by resolution, establish such committees as it considers necessary.
- 42.2. A committee is to consist of the Mayor and such other Councillors as are elected by the Councillors or appointed by the Council.
- 42.3. The quorum for a meeting of a committee is to be:
 - 42.3.1. such number of members as the Council decides, or
 - 42.3.2. if the Council has not decided a number - a majority of the members of the committee.

43. Functions of committees

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

44. Notice of committee meetings to be given

- 44.1. The General Manager, or in the absence of the General Manager, an employee designated by the General Manager of the Council must send to each Councillor, at least three days before each meeting of the committee, a notice specifying:

- 44.1.1. the time and place at which and the date on which the meeting is to be held; and
- 44.1.2. the business proposed to be transacted at the meeting.
- 44.2. However, notice of less than three days may be given of a committee meeting called in an emergency.
- 44.3. The provisions of clause 17.2 to 17.4 apply to the agenda of committee meetings in the same manner as they apply to the agenda of meetings of the Council.

45. Non-members entitled to attend committee meetings

- 45.1. A Councillor who is not a member of a committee of the Council is entitled to attend and speak at a meeting of the committee.
- 45.2. However, the Councillor is not entitled to:
 - 45.2.1. give notice of business for inclusion in the agenda for the meeting, or
 - 45.2.2. move or second a motion at the meeting, or
 - 45.2.3. vote at the meeting.

46. Procedure in committees

- 46.1. Subject to clause 46.3, each committee of the Council may regulate its own functions.
- 46.2. Without limiting clause 46.1, a committee of the Council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.
- 46.3. Voting at a committee meeting is to be by open hands means (such as on the voices or by show of hands).

47. Committees to keep minutes

- 47.1. Each committee of Council must ensure that full and accurate minutes of the proceedings of its meetings are kept.
- 47.2. The General Manager, or in the absence of the General Manager, an employee designated by the General Manager must ensure that the following matters are recorded in the committee's minutes:
 - 47.2.1. Details of each motion moved at a committee meeting and of any amendments moved to it;
 - 47.2.2. The names of the mover and seconder of the motion or amendment;

47.2.3. Whether the motion or amendment is passed or lost.

47.3. As soon as the minutes of an earlier meeting of a committee of the council have been confirmed at a later meeting of the committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.

48. Chairperson and deputy chairperson of committees

48.1. The Chairperson of each committee of the Council, must be:

48.1.1. the Mayor; or

48.1.2. if the Mayor does not wish to be the chairperson of a committee - a member of the committee elected by the Council; or

48.1.3. if the Council does not elect such a member - a member of the committee elected by the committee.

48.2. The Council may elect a member of a committee of the Council as deputy chairperson of the committee. If the Council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.

48.3. If neither the chairperson nor the deputy chairperson of a committee of the Council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.

48.4. The chairperson is to preside at a meeting of a committee of the Council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

49. Absence from committee meetings

49.1. A member ceases to be a member of a committee if the member (other than the Mayor):

49.1.1. has been absent from three consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or

49.1.2. has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.

49.2. Clause 49.1 does not apply if all members of the Council are members of the committee.

Note: The term "year" means the period beginning 1 July and ending the following 30 June. See the dictionary to the Act.

50. Reports of committees

50.1. If, in a report of a committee of the Council, distinct recommendations are made, the decision of the Council may be made separately on each recommendation.

50.2. The recommendations of a committee of the Council are, so far as adopted by the Council, resolutions of the Council.

50.3. If a committee of Council passes a resolution, or makes a recommendation, during a meeting, or part of a meeting, that is closed to the public, the Chairperson must:

50.3.1. make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and

50.3.2. report the resolution or recommendation to the next meeting of council.

51. Disorder in committee meetings

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

52. Committee may expel certain persons from its meetings

52.1. If a meeting or part of a meeting of a committee of the Council is closed to the public in accordance with clause 61, the committee may, by resolution, expel from the place where the meeting is being held any person who is not a Councillor.

If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from, and, if necessary, restrain the person from re-entering, that place.

PART 6 - PECUNIARY INTERESTS

53. Pecuniary interest

- 53.1. For the purposes of this Part, a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided in clause 54.
- 53.2. 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 a matter or if the interest is of a kind specified in clause 55.

54. Persons who have a pecuniary interest

- 54.1. For the purposes of this Part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
- 54.1.1. the person; or
 - 54.1.2. another person with whom the person is associated.
- 54.2. A person is taken to have a pecuniary interest in a matter if:
- 54.2.1. the person's spouse or de facto partner or a relative of the person has a pecuniary interest in the matter; or
 - 54.2.2. the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.
- 54.3. However, a person is not taken to have a pecuniary interest in a matter as referred to in clause 54.2:
- 54.3.1. if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body; or
 - 54.3.2. just because the person is a member of, or employed by, Council or a statutory body, or is employed by the Crown; or
 - 54.3.3. just because the person is a member of, or a delegate of 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.

55. Interests that need not be declared

- 55.1. The following interests do not need to be disclosed for the purposes of this Part:
- 55.1.1. an interest as an elector
 - 55.1.2. an interest as a ratepayer or a person liable to pay a charge
 - 55.1.3. 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 or a section of the public that includes persons who are not subject to this Part
 - 55.1.4. An interest in any matter relating to the terms on which the provisions 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
 - 55.1.5. an interest as a member of a club or other organisation or association, unless the interest is as a holder of an office in the club or organisation (whether remunerated or not)
 - 55.1.6. 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
 - 55.1.7. 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) [see clauses 54.3.2 and 54.3.3] 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) [see clauses 54.3.2 and 54.3.3] would by reason of the proprietary interest have a pecuniary interest in the proposal
 - 55.1.8. 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
 - 55.1.9. 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

- 55.1.10. 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 and 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
- 55.1.11. an interest relating to the payment of fees to Councillors (including the mayor and deputy mayor)
- 55.1.12. 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 s.252 of the Local Government Act 1993
- 55.1.13. 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
- 55.1.14. 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
- 55.1.15. 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
- 55.1.16. 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.

56. Disclosure and participation in meetings

- 56.1 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 at the commencement of the meeting. [section 451(1)]
- 56.2 The Councillor or member must not be present at, or in sight of, the meeting of the Council or committee:
- 56.2.1.1 at any time during which the matter is being considered or discussed by the Council or committee, or
 - 56.2.1.2 at any time during which the Council or committee is voting on any question in relation to the matter. [section 451(2)]

- 56.3 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 s.448.

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

57. Disclosures to be recorded

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

PART 7 - PRESS AND PUBLIC

58. Public notice of meetings

- 58.1 The Council must give notice to the media 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.
- 58.2 The Council and each such committee must have available for the media and public at its offices and at each meeting copies (for inspection and taking away by persons) of the agenda for the meeting. This requirement does not apply to an agenda for a matter that, in the opinion of the General Manager, or in the absence of the General Manager, an employee designated by the General Manager, is likely to be considered when the meeting is closed to the media and public.
- 58.3 The copies of the agenda are to be available to the media and public as follows:
- 58.3.1 for inspection, as nearly as possible to the time they are available to Councillors
- 58.3.2 for taking away, at the meeting of Council or such committee.
- 58.4 The copies of the agenda are to be available free of charge.
- 58.5 Copies of the agenda will be available on Council's website.

59 Attendance at meetings of the Council

- 59.1 The media and public are entitled to attend a meeting of the Council and those of its committees of which all its members are Councillors, except as provided by this clause.
- 59.2 Council or a committee of Council may close part or all of its meetings as comprises the receipt or discussion of one or more of the following:
- 59.2.1 personnel matters concerning particular individuals (other than Councillors)
- 59.2.2 the personal hardship of any resident or ratepayer
- 59.2.3 information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
- 59.2.4 commercial information of a confidential nature that would, if disclosed:
- (i) prejudice the commercial position of the person who supplied it, or
- confer a commercial advantage on a competitor of the Council, or
- (ii) reveal a trade secret
- 59.2.5 information that would, if disclosed, prejudice the maintenance of law
- 59.2.6 matters affecting the security of the Council, Councillors, Council staff or Council property
- 59.2.7 advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

59.2.8 information concerning the nature and location of a place or an item of Aboriginal significance on community land

59.2.9 alleged contraventions of the Council's Code of Conduct.

Note: See section 10A(2)

59.3 In order to close a meeting to the public, Council or a Committee must be satisfied that the matter or information being discussed or received falls within at least one of the above grounds.

59.4 The existence of any of these grounds does not place any obligation on Council to close its meeting to consider a matter or information.

59.5 Council, or a committee of 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.

59.6 Council, or a committee of Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

60 When can a Council meeting be closed

60.1 A Council or a Committee of Councillors can close its meeting to the public without further discussion to consider three types of matters:

60.1.1 personnel matters concerning particular individuals

60.1.2 matters involving the personal hardship of a resident or ratepayer

60.1.3 matters that would disclose a trade secret.

60.2 However, in the case of the other grounds listed in Clause 59.2 above, the existence of these grounds on their own is not enough to allow the closure of a meeting. In such cases, the Council or Committee must also be satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

Note: See Section 10B(1)(b).

61 What matters should not be considered when determining the public interest

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

61.1.1 a person may misinterpret or misunderstand the discussion, or

61.1.2 the discussion of the matter may:

61.1.2.1 cause embarrassment to the Council or Committee concerned, or to Councillors or to employees of the Council

61.1.2.2 cause a loss of confidence in the Council or Committee.

Note: See Section 10(B)(4).

62 Closing a meeting to consider legal advice

62.1 A meeting is not to be closed for the receipt and consideration of information or advice concerning litigation or the subject of legal professional privilege unless the advice concerns legal matters that:

62.1.1 are substantial issues relating to a matter in which the Council or Committee is involved, **and**

62.1.2 are clearly identified in the advice, **and**

62.1.3 are fully discussed in that advice.

Note: See Section 10B(2).

63 Closing a meeting to consider a conduct reviewer's report

63.1 A meeting of Council can be closed to the public to consider alleged contraventions of the Council's Code of Conduct.

Note: See Section 10A(2)(i)

63.2 A meeting of Council is to be closed to public when considering a final investigation report where it is permitted to do so under s.10(A) of the Act and Clause 59(2) above. However, in closing a meeting to consider a conduct reviewer's report, Council is still required to apply the public interest test under s.10(b)(1)(b) of the Act.

64 Public participation in Council meetings

- 64.1 Council will hold a segment known as ‘Presentations from the Gallery’ during its ordinary meetings and may hold this segment in extraordinary meetings.
- 64.2 The Chairperson will provide an opportunity for members of the gallery to make presentations relating to a specific item listed in the business paper for that meeting.
- 64.3 The people who so nominate will be given an opportunity to address Council in the ‘Presentations from the Gallery’ segment as set out the Order of Business at Ordinary Meetings (See Schedule 2).
- 64.4 Each member of the gallery must register with the Clerk of the Chamber prior to the commencement of the meeting, state their name when commencing their presentation and outlining which item on the agenda they are speaking to. Each speaker will be given five minutes to address Council. The Clerk of the Chamber will organise speakers in line with the order of business at the meeting.
- 64.5 That each speaker be given 5 minutes to address Council. Council may by resolution extend this time limit for any speaker.
- 64.6 Where there are multiple speakers putting forward the same or similar arguments about an item, the Chairperson may limit the number of speakers.
- 64.7 The address must relate to the business before the meeting and the mayor or chairperson will call to order any member of the public who fails to comply with this requirement. If the member of the public addressing the meeting fails to comply with the mayor or chairperson’s call to order, the mayor or chairperson may withdraw that person’s right to address the meeting.
- 64.8 Councillors and staff must not enter into debate with speakers from the gallery.

65 Public access to correspondence and reports

- 65.1 The Council and a committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- 65.2 This clause does not apply if the correspondence or reports:
- 65.2.1 relate to a matter that was received or discussed; or
 - 65.2.2 were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.
- 65.3 A report of a departmental representative tabled at a Council meeting must be available for the information of the Councillors as well as the public.

PART 8 - MISCELLANEOUS

66 Information relating to proceedings at closed meetings not to be disclosed

- 66.1 If a meeting or part of a meeting of the Council or a committee of the Council is closed to the public in accordance with clause 61.2, a person must not, without the authority of the Council or the committee, disclose, otherwise than to the Council or to a Councillor, information with respect to the discussion at, or the business of, the meeting.
- 66.2 This clause does not apply:
- 66.2.1 to the report of a committee of the Council when presented to the Council;
or
- 66.2.2 to the disclosure of information referred to in clause 63.1 by a Councillor or employee of the Council in the course of the Councillor's or employee's duties or by providing such information to enable the Minister or the department to properly exercise their functions under the Act.

67 Inspection of the minutes of the Council or a committee

- 67.1 An inspection of the minutes of the Council or committee of the Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes.
- 67.2 The General Manager, or in the absence of the General Manager, an employee designated by the General Manager must ensure that the minutes of the Council and any minutes of a committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

Note: See Cl.272 Local Government Regulation 2005

68 Recording of Council meetings and workshops

- 68.1 Council will *live stream* all its ordinary and extraordinary meetings.
- 68.1 Council may *live stream* its committee meetings, and other meetings at the discretion of the Chairperson.
- ~~68.2 The recordings are to be kept for a period of three months and managed in accordance with the provisions of the Privacy and Personal Information Protection Act 1998, after which time they are to be destroyed.~~
- ~~68.3 These recordings will be available to the public for listening to on written request by any person as soon as practicable after meetings. The recordings will be made available subject to the removal of any statement that may constitute a breach of privacy or defamation laws. Copies of the recordings will not be made for use by members of the public.~~
- 68.4 Members of the public may, but only with the permission of the Council, use a Council- authorised recorder (including a still or video camera and any electronic device capable of recording speech) to record the proceedings of ordinary, extraordinary and committee meetings.

68.5 In deciding whether to permit members of the public to record proceedings, Council will have regard to section 18 of the *Privacy and Personal Information Protection Act 1998*, which refers to the use of personal information.

69 Certain circumstances do not invalidate Council decisions

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

69.1.1 a vacancy in a civic office; or

69.1.2 a failure to give notice of the meeting to any Councillor or a committee member; or

69.1.3 any defect in the election or appointment of a Councillor or a committee member; or

69.1.4 a failure of a Councillor or a committee member to disclose a pecuniary interest at a Council or a committee meeting; or

69.1.5 a failure to comply with this Code.

70 Use of Council's seal

70.1 The Council Seal can be affixed to a document only after a resolution has been carried at a Council meeting authorising that the seal be affixed. The resolution must specifically refer to the document and the document must relate to Council business.

70.2 The seal of the Council may be affixed to a document only in the presence of:

- the mayor and the general manager, or
- at least one councillor (other than the mayor) and the general manager, or
- the mayor and at least one other councillor, or
- at least 2 councillors other than the mayor.

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

70.4 Resolutions to use Council's seal must be in the following form:

“That Council authorises the Mayor and the General Manager to have the Council seal affixed to [insert specific description of document(s)] in their presence.”

70.5 Council's seal will be used only for documents that relate to the business of Council, and without limiting the use of the seal, will normally only include specifically:

- the exercise by Council of its functions in relation to the purchase, exchange, leasing, disposal of, and otherwise
- dealing with, real property, or
- executing a contract of employment for the General Manager, or
- completing agreements or contracts from state or federal government departments where they have requested the agreements or contracts be under seal, or
- entering into planning agreements.

- 70.6 The General Manager will not witness the affixing of Council's seal to the contract of employment for the General Manager.
- 70.7 The Council Seal may not be affixed to references or certificates of service to employees or congratulatory letters to organisations or members of the community.
- 70.8 References or certificates of service to employees or congratulatory letters to organisations or members of the public may be provided on letterhead or enhanced format without the Council Seal.

71 Councillor Workshops

- 71.1 Council will hold Councillor Workshop Sessions as required for the purpose of providing background information on issues before the Council.
- 71.2 The role of Workshops is to provide participants with information and the opportunity for questions which will help with the development of Council's formal decision-making process. The Workshop is not a decision-making forum. **Anything said at a Workshop does not constitute an official Council position.**
- 71.3 These information sessions are not open to the public.
- 71.4 All Councillors, senior executive management team and invited participants are entitled to attend these workshops, however attendance is optional.
- 71.5 The sessions will be convened and chaired by the General Manager or their delegate.
- 71.6 Briefing papers prepared for the workshop are to be made available for any Councillor who does not attend, and may be made available for public inspection by request under the *Government Information (Public Access) Act 2009*.
- 71.7 Briefing papers must not contain recommendations about any issue.
- 71.8 No decisions, recommendations or agreements about any issues raised are to be made at the sessions.
- 71.9 Details relating to the operation of workshops are set out in Council's *Protocol for the operation of Council Workshops*. (See Schedule 3)

72 Election of the Mayor

72.1 Election of mayor by councillors

- (1) The mayor is a person elected to the office of mayor by:
 - (a) the councillors from among their number, unless there is a decision in force under Chapter 9 of the Local Government Act which provides for the election of the mayor by the electors.
 - (b) the electors, if such a decision is in force.

[section 227]

72.2 For what period is the mayor elected

- (1) A mayor elected by the councillors holds the office of mayor for the period as specified in the Act.
- (2) A mayor elected by the electors holds the office of mayor for 4 years, subject to the Act.
- (3) The office of mayor:
 - (a) commences on the day the person elected to the office is declared to be so elected, and
 - (b) becomes vacant when the person's successor is declared to be elected to the office, or on the occurrence of a casual vacancy in the office.
- (4) A person elected to fill a casual vacancy in the office of mayor holds the office for the balance of the predecessor's term.

[section 230]

*Note: A mayor holds office until a new mayor is elected. In the case of an election, the mayor holds office until their successor is appointed even if the existing mayor is not re-elected as a councillor. Details relating to the process of electing a mayor are set out in **Schedule 4**.*

73 Amendment of Code

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

SCHEDULE 1

Method of conducting choosing by lot

1. For the purposes of clause 12.4 of this code, the person conducting the election must:
 - a. state what purpose the draw fulfills in terms of the issue to be decided;
 - b. ensure that identically-sized slips of paper for each person in the draw are prepared, each of which has on it the name of the individual candidates;
 - c. all completed slips to be used are shown to those present;
 - d. each slip is placed in an identical container and an identical cover is placed on each container and then all containers are placed in a suitable box which is fastened or locked;
 - e. the returning officer then shakes and rotates the box, inviting any other person present to do the same;
 - f. the returning officer then opens the box and with eyes averted, removes one container, opens and shows the name inside to those present and announces that this is the Councillor who fulfills the purpose of the draw as stated at the beginning of the procedure;
 - g. if requested, the remaining containers are opened and the names shown to those present.

SCHEDULE 2

General Order of Business at Ordinary Meetings

1. Opening
2. Apologies
3. Disclosures of pecuniary interest
4. Confirmation of minutes
5. Presentation by Departmental or other representatives
6. Business arising from the minutes
7. Presentations from the gallery relating to listed items on the agenda:
8. Mayoral report
9. Mayoral minute
10. Notices of motions of rescission
11. Notices of motions
12. Items for determination
13. Items for information
14. Committee reports and recommendations
15. Delegates' reports
16. Responses to Councillors' questions
17. Matters of which notice has not been given but ruled by the Chair to be considered
18. Councillors' questions for next meeting
19. Consideration of business in closed committee
20. Closure

SCHEDULE 3

Protocol for the operation of Council Workshops

1. Introduction

Council regularly runs Council Workshops as part of its meeting program. The aim of a Workshop is to brief Councillors and senior staff on key initiatives/policies Council is proposing. These Workshops provide an informal environment in which to ask questions and seek clarification on matters before a more formal report is submitted to either a Council Committee or Full Council for final decision/recommendation. This Protocol has been developed to assist Councillors in understanding how Workshops operate and how they feed into Council's formal decision-making process.

2. The Role of Workshops

The role of Workshops is to provide participants with information and the opportunity for questions which will help with the development of Council's formal decision-making process. The Workshop is not a decision-making forum. **Anything said at a Workshop does not constitute an official Council position.** This can only occur at a formal meeting of a Council.

The OLG Meetings Practice Note No.16, notes:

A council can hold a workshop (sometimes called a briefing session) under its general powers as a body politic. Workshops are informal gatherings and can provide useful background information to councillors on issues. A workshop may involve councillors, council staff and invited participants.

Workshops should not be used for detailed or advanced discussions where agreement is reached and/or a (de-facto) decision is made. Any detailed discussion or exchange of views on an issue, and any policy decision from the options, should be left to the open forum of a formal council or committee meeting. Workshops are merely a means which enable councillors to bring an informed mind to the appropriate decision-making forum. (13.1.1 p.66 Meetings Practice Note No. 16, August 2009)

Accordingly, the Office of Local Government recognises the value of workshops or information sessions in developing councillor knowledge and expertise, and in assisting their role as public officials. However, where workshops are held in relation to development applications or business enterprises, Councillors need to remember obligations and responsibilities under the Model Code of Conduct, and community perceptions in terms of unfair advantage and transparency of process. **The Office therefore advises that it would be prudent for Councils to develop protocols for workshops which could sit alongside or inside a Council's Code of Meeting Practice.**

3. Who can attend Workshops

As workshops **are not meetings of the Council or such committees**, the attendance entitlements of councillors and the public therefore do not apply as set out under the Local Government Act and Regulation. However, every councillor should be invited to workshops because under the provisions of the Model Code of Conduct it states that *members of staff who provide any information to a particular councillor in the performance of their civic duties must also make it available to any other councillor who requests it.* Therefore in the interests of equity of access to information **all councillors are entitled to attend workshops.** However, there is no obligation on councillors to attend workshops.

Council may invite third parties to present or provide advice to workshops. Those parties can only remain in those meetings for the purpose of that presentation or advice, and not for the discussion.

4. Meeting procedures for Workshops

The meeting procedures in the Local Government Act and Regulation apply only to meetings of a council and its committees made up of councillors only. As workshops are not meetings of a Council or its committees, the meeting procedures in the Act and the Regulation do not apply. The Meetings Practice Note No.16 notes that *'meeting procedures for council workshops is a decision for the council or, failing that, the workshop convenor.'* (13.3.1 p.67)

A copy of presentation material will be made available to councillors in hard copy at the workshops, or later on the HUB.

The Convenor of the Workshop is responsible for setting out the Order of Business for a Workshop. The Convenor should outline this order of business to be discussed at the commencement of the Workshop noting approximate times which will be taken to discuss each item. The Order of Business is published on the Workshop Notice issued in advance from the Office of the General Manager.

The Mayor (or Deputy in his/her absence) may manage proceedings of the workshop.

5. Behaviour at Workshops

As Workshops are an informal mechanism for discussion some **basic rules of behaviour need to apply** consisting of:

- **Respect** that participants may have **different views**,
- **Allow each person to express their view** without interruption, and
- **Respect the role of the Convenor and Chair**

6. Respecting Confidentiality

Workshops provide a forum for Councillors to informally discuss matters prior to formal decisions being made by the body politic. Accordingly material may be discussed at a Workshop which could be of a sensitive or confidential nature. **The material should be treated as confidential until the public interest test is applied to it** as set out in Section 10A of the Local Government Act, and reported appropriately at a Council or Committee meeting.

The non-disclosure provisions of sections 664(1) and 664(2) of the Local Government Act should also apply. These provisions place an obligation on a public official not to disclose information obtained in connection with the administration and execution of the Act and to respect confidentiality.

Workshop participants should be cognisant of Conflict of Interest and Confidentiality requirements as set out in Council's Code of Conduct.

SCHEDULE 4

Election of the Mayor and Deputy Mayor

1. When is an election of a mayor by councillors to be held?

- (1) The election of the mayor by the councillors is to be held:
 - (a) if it is the first election after an ordinary election of councillors, within three weeks of the ordinary election; or
 - (b) if it is not that first election or an election to fill a casual vacancy, during the month of September.
- (2) If the councillors fail to elect a mayor as required by the Act, the governor may appoint one of the councillors as the mayor.

[section 290]

2. Casual vacancies in the office of mayor elected by councillors

- (1) If a casual vacancy occurs in the office of a mayor elected by councillors, the vacancy is to be filled in the meeting of Council to be held within 14 days after the occurrence of a vacancy.
- (2) If the councillors fail to elect a mayor as required by clause 1.1 and 1.2 of this Schedule, the Governor may appoint one of the councillors as the mayor.

[section 295]

3. Election of deputy mayor

- (1) Councillors may elect a person from among their number to be the deputy mayor. The person may be elected for a mayoral term or a shorter term.
- (2) The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of the mayor.
- (3) Councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under the Act, or if no deputy mayor has been elected.

[section 231]

4. Procedure for Election of Mayor by Councillors

4.1 Nomination

- (1) A councillor may be nominated without notice for election as mayor or deputy mayor.
- (2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee) and is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The nomination is to be delivered or sent to the Returning Officer.
- (4) The Returning Officer is to announce the names of the nominees at the Council meeting at which the election is to be held.

[Schedule 7 of the Regulation]

4.2 Election

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the Council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the Council meeting at which Council resolves on the method of voting.
- (4) In this clause “ballot” has its normal meaning of secret ballot and “open voting” means voting by a show of hands or similar means.

[Schedule 7 of the Regulation]

4.3 Returning Officer

- (1) The general manager (or a person appointed by the general manager) is the Returning Officer.

[Schedule 7 of the Regulation]

5. Election Process using Ordinary Ballot or Open Voting

5.1 Marking of ballot papers

- (1) If the election proceeds by ordinary ballot, the Returning Officer is to decide the manner in which votes are to be marked on the ballot papers.
- (2) The formality of a ballot paper under this Part must be determined in accordance with clause 345(1)(b) and (c) and (5) of the Local Government (General) Regulation as if it were a ballot paper referred to in that clause.
- (3) Clause 345(1)(b) of the Regulation states that:
A ballot paper of an elector at an election is informal if it has not been initialled on the back by the Returning Officer or an electoral official.
- (4) Clause 345(c) of the Regulation states as follows:
A ballot paper of an elector at an election is informal if it contains a mark or writing which, in the Returning Officer’s opinion would enable the elector to be identified.
- (5) Clause 345(5) of the Regulation states as follows:
Despite clause 5.1(2) of this Schedule, a ballot paper of an elector at an election is not informal by virtue of the existence of an unnecessary mark on the ballot paper if, in the opinion of the Returning Officer, the elector’s intention is clearly indicated on the ballot paper.
- (6) An informal ballot paper must be rejected at the count.

[Schedule 7 of the Regulation]

5.2 Count 2 candidates

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.

[Schedule 7 of the Regulation]

5.3 Count 3 or more candidates

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

- (3) If, after that, 3 or more candidates still remain, the procedure set out in clause 5.3 (1) of this Schedule is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 5.2(1) of this Code then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under clause 5.3 of this Schedule, 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

[Schedule 7 of the Regulation]

6. Election Process Using Preferential Ballot

6.1 Marking of ballot papers

- (1) The ballot papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers "1", "2" and so on against the various names so as to indicate the order of their preference for the candidates.
- (2) The formality of a ballot paper is to be determined in accordance with clause 345(1)(b) and (c) and 5 of the Regulation as if it were a ballot paper referred to in that clause.

Clause 345(1)(b) states as follows:

A ballot paper of an elector at an election is informal if it has not been initialled on the back by the Returning Officer or an electoral official.

Clause 345(1)(c) states as follows:

A ballot paper of an elector at an election is informal if it contains a mark or writing which, in the Returning Officer's opinion, would enable the elector to be identified.

Clause 345(5) states as follows:

Despite clause 73.1 of this Code, a ballot paper of an elector at an election is not informal by virtue of the existence of an unnecessary mark on the ballot paper if, in the opinion of the Returning Officer, the elector's intention is clearly indicated on the ballot paper.

An informal ballot paper must be rejected at the count.

[Schedule 7 of the Regulation]

6.2 Count

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot papers counted to him or her are transferred to the candidates with second preferences on those ballot papers.
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.
- (4) In this clause "absolute majority" in relation to votes, means a number which is more than one-half of the number of unexhausted formal ballot papers.

[Schedule 7 of the Regulation]

6.3 Tied candidates

- (1) If, on any count of votes, there are 2 candidates in, or remaining in the election and the numbers of votes cast for the 2 candidates are equal – the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
- (2) If, on any count of votes, there are 3 or more candidates in, or remaining in the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes – the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

[Schedule 7 of the Regulation]

6.4 Choosing by lot

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

[Schedule 7 of the Regulation]

6.5 Result

- (1) The result of the election (including the name of the candidate elected as mayor or deputy mayor) is:
 - (a) to be declared to the councillors at the Council meeting at which the election is being held by the Returning Officer; and
 - (b) to be delivered or sent to the Chief Executive of the Office of Local Government and to the Secretary of the Local Government NSW

[Schedule 7 of the Regulation]

Appendix – Terms of Reference – Planning and Strategy Committee of the Whole



PLANNING AND STRATEGY COMMITTEE

TERMS of REFERENCE

Membership

The Planning and Strategy Committee is formed as a committee of the whole comprising all councillors and chaired by the Mayor.

Purpose

The Committee's purpose is to determine matters and adopt or amend policies or strategic plans primarily related to development, planning, environment and strategic landuse in the Queanbeyan-Palerang Local Government Area.

Delegations

1. The Planning and Strategy Committee has delegated authority in accordance with Section 377 of the *Local Government Act 1993* to determine matters pursuant to the:
 - *Environmental Planning and Assessment Act 1979*
 - *Local Government Act 1993*
 - *Swimming Pools Act 1992.*
 - *Roads Act 1993*
 - *Public Health Act 2010*
 - *Heritage Act 1977*
 - *Protection of the Environment Operations Act 1997*
2. The delegation excludes:
 - The decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6 of the Local Government Area.
 - The review of a determination made by Council and not by a delegate of the Council, of an application for approval or an application that may be reviewed under Section 82A of the *Environmental Planning and Assessment Act 1979*.

- Decisions relating to Development Applications carried out on Community Land except where:
 - the development involves the erection, rebuilding or replacement of a building; or
 - it involves extension to an existing building that would occupy more than 10 per cent of its existing area, or
 - the development involves intensification, by more than 10 per cent, of the use of the land
 - the location of the development has not been specified in the plan of management applying to the land
 - However, the following buildings are exempt from these requirements and can be dealt with under delegation:
 - toilet facilities,
 - small refreshment kiosks,
 - shelters for persons from the sun and weather,
 - picnic facilities,
 - structures (other than accommodations for spectators) required for the playing of games or sports,
 - playground structures,
 - work sheds or storage sheds,
 - buildings of a kind prescribed by the regulations,
 - adoption of street names.
 - Any function specified in Section 377(1) of the *Local Government Act 1993* which is specifically listed in subclause (a) to (u) of that section.
3. The Committee may conduct site inspections.
 4. The Committee may nominate representatives to planning and statutory committees and panels.
 5. Committee meetings will be live streamed via Council's webcast system.

QUEANBEYAN-PALERANG REGIONAL COUNCIL

Council Meeting Attachment

20 SEPTEMBER 2017

ITEM 4.10 CODE OF CONDUCT AND CODE OF MEETING PRACTICE

ATTACHMENT 2 QPRC CODE OF CONDUCT

Code of Conduct

Date policy was adopted:	12 October 2016
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Next Policy review date:	October 2017
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PART 1 INTRODUCTION

This QPRC Code of Conduct is adapted from the Model Code of Conduct for Local Councils in NSW made for the purposes of section 440 of the *Local Government Act 1993* ("the Act"). Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code. For the purposes of section 440 of the Act, the QPRC Code of Conduct comprises all parts of this document.

Councillors, administrators, members of staff of council, independent conduct reviewers, members of council committees including the conduct review committee and delegates of the council must comply with the applicable provisions of council's code of conduct in carrying out their functions as council officials. It is the personal responsibility of council officials to comply with the standards in the code and regularly review their personal circumstances with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the Act. The Act provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office. A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

Failure by a member of staff to comply with council's code of conduct may give rise to disciplinary action.

PART 2 PURPOSE OF THE CODE OF CONDUCT

The QPRC Code of Conduct sets the minimum requirements of conduct for council officials in carrying out their functions. The Code is prescribed by regulation.

The QPRC Code of Conduct has been developed to assist council officials to:

- understand the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in the integrity of local government.

PART 3 GENERAL CONDUCT OBLIGATIONS

General conduct

- 3.1 You must not conduct yourself in carrying out your functions in a manner that is likely to bring the council or holders of civic office into disrepute. Specifically, you must not act in a way that:
- a) Contravenes the Act, associated regulations, council's relevant administrative requirements and policies
 - b) is detrimental to the pursuit of the charter of a council
 - c) is improper or unethical
 - d) is an abuse of power or otherwise amounts to misconduct
 - e) causes, comprises or involves intimidation, harassment or verbal abuse
 - f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
 - g) causes, comprises or involves prejudice in the provision of a service to the community. (*Schedule 6A*)
- 3.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (*section 439*)
- 3.3 You must treat others with respect at all times.

Fairness and equity

- 3.4 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.5 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

Harassment and discrimination

- 3.6 You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

Development decisions

- 3.7 You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.
- 3.8 In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

Binding caucus votes

- 3.9 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.10 For the purposes of clause 3.9, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 3.11 Clause 3.9 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 3.12 Clause 3.9 does not apply to a decision to elect the Mayor or Deputy Mayor or to nominate a person to be a member of a council committee.

PART 4 CONFLICT OF INTERESTS

- 4.1 A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 4.2 You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favor of your public duty.
- 4.3 Any conflict of interests must be managed to uphold the probity of council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 4.4 Private interests can be of two types: pecuniary or non-pecuniary.

What is a pecuniary interest?

- 4.5 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. (*section 442*)
- 4.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (*section 443*)
- 4.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
- a) councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (*section 449*)
 - b) councillors and members of council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*)

Section 451 (1) & (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
- (a1) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (*whose interests are relevant under section 443*) in that person's principal place of residence, and

(b) the councillor made a special disclosure under this section in relation to the interest before the commencement of the meeting.

c) designated persons immediately declare, in writing, any pecuniary interest.
(section 459)

4.8 Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.

4.9 Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

What are non-pecuniary interests?

4.10 Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

4.11 The political views of a councillor do not constitute a private interest.

Managing non-pecuniary conflict of interests

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

4.13 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 4.12.

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

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

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

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

- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official

b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply

- 4.17 If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 4.18 If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- 4.19 Despite clause 4.16(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff through the general manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 4.16(b) above.

Reportable political donations

- 4.20 Councillors should note that matters before council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.
- 4.21 Where a councillor has received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
 - b) where the major political donor has a matter before council, then the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 4.16(b).
- 4.22 For the purposes of this Part:
- a) a "reportable political donation" is a "reportable political donation" for the purposes of section 86 of the *Election Funding, Expenditure and Disclosures Act 1981*,
 - b) a "major political donor" is a "major political donor" for the purposes of section 84 of the *Election Funding, Expenditure and Disclosures Act 1981*.
- 4.23 Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.
- 4.24 If a councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 4.21, that councillor is not prevented from participating in a decision to delegate council's decision-making role to council staff through the general manager or appointing another person or body to make the decision in accordance with the law (see clause 4.19 above).

Loss of quorum as a result of compliance with this Part

- 4.25 Where a majority of councillors are precluded under this Part from consideration of a matter the council or committee must resolve to delegate consideration of the matter in question to another person.

- 4.26 Where a majority of councillors are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the councillors may apply in writing to the Chief Executive to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interests.
- 4.27 The Chief Executive will only exempt a councillor from complying with a requirement under this Part where:
- a) compliance by councillors with a requirement under the Part in relation to a matter will result in the loss of a quorum, and
 - b) the matter relates to the exercise of a function of the council that may not be delegated under section 377 of the Act.
- 4.28 Where the Chief Executive exempts a councillor from complying with a requirement under this Part, the councillor must still disclose any interests they have in the matter the exemption applies to in accordance with the requirements of this Part.
- 4.29 A councillor, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interests in the matter, is permitted to participate in consideration of the matter, 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,
 - b) the non-pecuniary conflicts of interests arise only because of an interest that a person has in that person's principal place of residence, and
 - c) the councillor declares any interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part.

Other business or employment

- 4.30 If you are a member of staff of council considering outside employment or contract work that relates to the business of the council or that might conflict with your council duties, you must notify and seek the approval of the general manager in writing. (*section 353*)
- 4.31 As a member of staff, you must ensure that any outside employment or business you engage in will not:
- a) conflict with your official duties
 - b) involve using confidential information or council resources obtained through your work with the council
 - c) require you to work while on council duty
 - d) discredit or disadvantage the council.

Personal dealings with council

- 4.32 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

PART 5 PERSONAL BENEFIT

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

Gifts and benefits

- 5.1 You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.
- 5.2 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Token gifts and benefits

- 5.3 Generally speaking, token gifts and benefits include:
- a) Free or subsidised meals, beverages or refreshments provided in conjunction with:
 - i. the discussion of official business
 - ii. council work related events such as training, education sessions, workshops
 - iii. conferences
 - iv. council functions or events
 - v. social functions organized by groups, such as council committees and community organisations
 - b) invitations to and attendance at local social, cultural or sporting events
 - c) gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
 - d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers
 - e) prizes of token value.

Gifts and benefits of value

- 5.4 Notwithstanding clause 5.3, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

How are offers of gifts and benefits to be dealt with?

- 5.5 You must not:
- a) seek or accept a bribe or other improper inducement
 - b) seek gifts or benefits of any kind
 - c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty
 - d) accept any gift or benefit of more than token value
 - e) accept an offer of cash or a cash-like gift, regardless of the amount.

- 5.6 For the purposes of clause 5.5(e), a “cash-like gift” includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.
- 5.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Mayor or the general manager. The recipient, supervisor, Mayor or general manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register. The gift or benefit must be surrendered to council, unless the nature of the gift or benefit makes this impractical.

Improper and undue influence

- 5.8 You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the appropriate exercise of their representative functions.
- 5.9 You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for council in order to obtain a private benefit for yourself or for any other person or body.

PART 6 RELATIONSHIP BETWEEN COUNCIL OFFICIALS

Obligations of councillors and administrators

- 6.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. The governing body has the responsibility of directing and controlling the affairs of the council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.
- 6.2 Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager in the performance of council's functions by way of council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (*section 352*)
 - b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate (*Schedule 6A of the Act*)
 - c) contact a member of the staff of the council on council related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
 - d) contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to council's external auditors or the Chair of council's audit committee who may be provided with any information by individual councillors reasonably necessary for the external auditor or audit committee to effectively perform their functions.

Obligations of staff

- 6.3 The general manager is responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation of the decisions of the council without delay.
- 6.4 Members of staff of council must:
- a) give their attention to the business of council while on duty
 - b) ensure that their work is carried out efficiently, economically and effectively
 - c) carry out lawful directions given by any person having authority to give such directions
 - d) give effect to the lawful decisions, policies, and procedures of the council, whether or not the staff member agrees with or approves of them
 - e) ensure that any participation in political activities outside the service of the council does not conflict with the performance of their official duties.

Obligations during meetings

- 6.5 You must act in accordance with council's Code of Meeting Practice, if council has adopted one, and the *Local Government (General) Regulation 2005* during council and committee meetings.
- 6.6 You must show respect to the chair, other council officials and any members of the public present during council and committee meetings or other formal proceedings of the council.

Inappropriate interactions

6.7 You must not engage in any of the following inappropriate interactions:

- a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
- b) Council staff approaching councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
- c) Council staff refusing to give information that is available to other councillors to a particular councillor.
- d) Councillors and administrators who have lodged a development application with council, discussing the matter with council staff in staff- only areas of the council.
- e) Councillors and administrators being overbearing or threatening to council staff.
- f) Councillors and administrators making personal attacks on council staff in a public forum.
- g) Councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.
- h) Council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
- i) Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.
Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by council associated with current or proposed legal proceedings unless permitted to do so by council's general manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.

PART 8 MAINTAINING THE INTEGRITY OF THIS CODE

8.1 You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this code or its administration.

Complaints made for an improper purpose

8.2 You must not make a complaint or cause a complaint to be made under this code for an improper purpose.

8.3 For the purposes of clause 8.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:

- a) to intimidate or harass another council official
- b) to damage another council official's reputation
- c) to obtain a political advantage
- d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
- e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
- f) to avoid disciplinary action under this code
- g) to take reprisal action against a person for making a complaint under this code except as may be otherwise specifically permitted under this code
- h) to take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this code except as may be otherwise specifically permitted under this code
- i) to prevent or disrupt the effective administration of this code.

Detrimental action

8.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this code except as may be otherwise specifically permitted under this code.

8.5 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this code except as may be otherwise specifically permitted under this code.

8.6 For the purposes of clauses 8.4 and 8.5 detrimental action is an action causing, comprising or involving any of the following:

- a) injury, damage or loss
- b) intimidation or harassment
- c) discrimination, disadvantage or adverse employment treatment in relation to employment
- d) dismissal from, or prejudice in, employment
- e) disciplinary proceedings.

Compliance with requirements under this code

- 8.7 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.
- 8.8 You must comply with a reasonable and lawful request made by a person exercising a function under this code.
- 8.9 You must comply with a practice ruling made by the Office of Local Government.
- 8.10 Where you are a councillor or the general manager, you must comply with any council resolution requiring you to take action as a result of a breach of this code.

Disclosure of information about the consideration of a matter under this code

- 8.11 You must report breaches of this code in accordance with the reporting requirements under this code.
- 8.12 You must not make allegations of suspected breaches of this code at council meetings or in other public forums.
- 8.13 You must not disclose information about the consideration of a matter under this code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this code.

Complaints alleging a breach of this part


- 8.14 Complaints alleging a breach of this Part (Part 8) by a councillor, the general manager or an administrator are to be made to the Office of Local Government.
- 8.15 Complaints alleging a breach of this Part by other council officials are to be made to the general manager.

PART 9 DEFINITIONS

In the Code of Conduct the following definitions apply:

the Act	the <i>Local Government Act 1993</i>
act of disorder	see the definition in clause 256 of the <i>Local Government (General) Regulation 2005</i>
administrator	an administrator of a council appointed under the Act other than an administrator appointed under section 66
Chief Executive	Chief Executive of the Office of Local Government, Department of Premier and Cabinet
committee	a council committee
conflict of interests	a conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
council committee	a committee established by resolution of council
“Council committee member”	a person other than a councillor or member of staff of a council who is a member of a council committee
council official	includes councillors, members of staff of council, administrators, council committee members, conduct reviewers and delegates of council
councillor	a person elected or appointed to civic office and includes a Mayor
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	see the definition in section 441 of the Act
election campaign	includes council, State and Federal election campaigns
personal information	information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion
QPRC	Queanbeyan-Palerang Regional Council
the Regulation	the <i>Local Government (General) Regulation 2005</i>

The term “you” used in the Code of Conduct refers to council officials. The phrase “this code” used in the Code of Conduct refers also to the procedures for the administration of the Code of Conduct prescribed under the *Local Government (General) Regulation 2005*.

POLICY:-	
Policy No:	
Policy Title:	Code of Conduct
Date Policy was adopted by Council:	12 October 2016
Resolution Number:	239/16
Previous Policy Review Date:	
Next Policy Review Date:	October 2017
PROCEDURES/GUIDELINES:-	
Date Procedure/Guideline (if any) was developed:	12 October 2016
RECORDS:-	
Container Reference in TRIM: Policy	SF090089
Container Reference in TRIM: Procedure	SF090089
Other locations of Policy:	
Other locations of Procedures/Guidelines:	
DELEGATION (if any):-	
RESPONSIBILITY:-	
Draft Policy developed by:	General Manager
Committees (if any) consulted in the development of the Draft Policy:	
Responsibility for Implementation:	General Manager
Responsibility for Review of Policy:	General Manager
INTEGRATED PLANNING FRAMEWORK:	
Community Strategic Plan:	Strategic Priority No.
Delivery Program Title:	
Operational Plan:	Program No.
Senior Authorizing Officer	Position General Manager
	Signature/Date 

ACTION	COUNCIL MEETING DATE	RESOLUTION NUMBER	REPORT ITEM NUMBER
NEW/RECONFIRMED/ AMENDED			
New	12 October	239/16	Item 8/12

DATE REVIEWED	REVIEWER POSITION	REVIEWER NAME