

# CODE OF MEETING PRACTICE

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## **1. PURPOSE**

The intent of this code is to supplement the Local Government (General) Regulation 2005 (Regulations) in accordance with Section 360 (2) of the Local Government Act 1993 (LG Act).

## **2. STATEMENT**

### **2.1. Citation and Application**

This code may be cited as the Shoalhaven City Council Code of Meeting Practice.

This Code shall apply to:

- Council meetings
- All Committees comprising of Councillors appointed pursuant to Clause 260 Regulations with the exception of the provisions relating to 'Rising to speak' and 'Limitation on the number of times a member may speak'.
- Other Committees comprising of Councillors and Staff or Community members (including Boards) with the exception of the provisions relating to 'Rising to speak' and 'Limitation on the number of times a member may speak'.

Committees may amend other provisions in exceptional circumstances.

### **2.2. Commencement**

This code will come into force after its public exhibition and on its adoption by Shoalhaven City Council.

### **2.3. Acts and Regulations**

This Code is made pursuant to Section 360(2) and supplement's the LG Act and Regulations.

In the event of any inconsistency between this Code and the *LG Act* or *Regulations*, the *LG Act* or *Regulations* shall prevail but only to the extent of any inconsistency.

It is noted that upon adoption of this Code the provisions of Section 360(3) of the *LG Act* will apply whereby "A Council and a Committee of the Council of which all the members are Councillors must conduct its meetings in accordance with the Code of Meeting Practice adopted by it."

Where at a Council or Committee meeting matters arise which are not provided for in the LG Act and Regulations or this Code, the present rules, forms and usages of the Legislative Assembly of New South Wales shall apply, so far as they are applicable to the proceedings of the Council or Committee.

### **2.4. Code of Conduct**

Council's 'Code of Conduct' and Guidelines are to be read in conjunction with this Code and apply in all respects to the conduct at meetings.

### **2.5. Dress Code**

In respect to Ordinary Meetings, there is no prescribed minimum dress standard. However, Councillors are expected to be dressed in appropriate business attire whilst in the Chamber.

## **2.6. Mode of Address**

Councillors should at all times address other Councillors by their official designation (ie. Mayor or Councillor). Except for the Chairperson, Councillors shall stand when speaking at a Council Meeting unless prevented by physical infirmity.

## **2.7. Quorum**

The quorum for Council Committee meetings is determined by resolution of Council. If no quorum is resolved then the quorum will be a third of the members.

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

*Relates to Section 368 LG Act*

No business can be transacted at a meeting unless a quorum is present. In the absence of a quorum, the meeting must be adjourned to a time, date and place fixed by the chairperson, the majority of Councillors present or failing that, the General Manager.

*Relates to Clause 233 Regulations*

If so many Councillors declare an interest in a matter that the Council is unable to form a quorum to deal with that item, the Councillors may apply to the Minister to vote on that matter which can then be adjourned pending that approval. Alternatively, Council may delegate the General Manager, or other person or group to determine any function other than those listed in Section 377 LG Act.

Note: Refer also to Part 5.6 when considering Local Environmental Plans that apply to a significant part of the Council area.

The quorum for specific purpose (or other) Committees is a majority of members unless otherwise determined by Council.

## **3. PROVISIONS**

### **3.1. Frequency of Council Meetings**

The Council shall set the Ordinary and Committee meeting cycle (time, date and venue) by resolution in accordance with Section 365 of the LG Act (namely at least ten times each year, each time in a different month). The meeting cycle, including any changes of meetings, shall be advertised and published on the Council's website.

### **3.2. Notice of Council and Core Committee Meetings**

- 1) The General Manager of a Council must send to each Councillor, at least 3 clear calendar days before each meeting of the Council, a notice specifying the time and place at and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.
- 2) A notice under this section, and the agenda for and the business papers relating to the meeting may be given to a Councillor in electronic form but only if all Councillors have facilities to access the notice, agenda and business papers in that form. Councillors

may nominate the method they wish to receive Regular Committees and Ordinary meeting agendas and business papers. This may be electronic, hard copy (delivered to their residence, business or other nominated location) or a combination of both.

- 3) Notice of less than three days may be given of an extraordinary meeting called in an emergency.
- 4) Other Committee meeting documents will be sent electronically to all Councillors, with a hard copy placed in the pigeon hole of committee members. Councillors may notify staff if they do not require hard copies.

*Relates to Section 367 LG Act*

### **3.3. Absent Councillors**

- 1) The tendering of an apology has no recognition under the LG Act or Regulations. It is recommended that any Councillor unable to attend a meeting should submit a written request for a leave of absence, including reasons for the leave of absence.
- 2) It should be noted that Section 234(1)(d) LG Act provides for a vacancy in civic office to occur if a Councillor is absent from three consecutive Ordinary meetings and Council has not granted a leave of absence.
- 3) A Councillor who intends to attend a council meeting despite having been granted leave of absence should, if practicable, give the General Manager at least two days' notice of their intention to attend.

*Relates to Clause 235A Regulations*

### **3.4. Order of Business**

- 1) At a meeting of a Council (other than an extra ordinary meeting), the general order of business is (except as provided by this Regulation) as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practise or its code of meeting practice does not fix the general order of business) as fixed by resolution of council.
- 2) The order of business fixed under part 1) above, may be altered if a procedural motion to that effect is passed. Such a motion can be moved without notice.
- 3) Despite clause 250 LG Act, only the mover of a motion, referred to in part (2) above, may speak to the motion before it is put.

*Relates to Clause 239 Regulations*

### **3.5. Mayoral Minutes**

- 1) If the Mayor is a chairperson at a meeting of a council, the chairperson is, by minutes signed by the chairperson, entitled to put to the meeting, without notice, any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge. (This is referred to as a Mayoral Minute).
- 2) Such a minute, when put to the meeting, takes precedence over all business on the Council's agenda for the meeting. The chairperson (but only if the chairperson is the Mayor) may move the adoption of the Minute without the motion being seconded and determine whether to accept any amendments to the Minute.

- 3) A recommendation made in a Minute of the chairperson (being the Mayor) or in a report made by a council employee is, so far as adopted by the council, a resolution of the council.
- 4) A Mayoral Minute may be also submitted to the Development Committee or Policy and Resources Committee if appropriate. (Refer MIN15.472)

*Relates to Clause 243 Regulations*

### **3.6. What Business can be Transacted at a Meeting of the Council**

- 1) A Council must not transact business at a meeting of the Council:
  - a) unless a Councillor has given notice of the business in writing within such time before the meeting as is fixed by the Council's Code of Meeting Practice or (if the council does not have a code of meeting practice or its code of meeting practise does not fix that time) as is fixed by resolution of Council, and
  - b) unless notice of the business has been sent to the Councillors in accordance with section 367 of the *Act*.
- 2) Subclause (1) above, does not apply to the consideration of business at a meeting if the business:
  - a) is already before, or directly relates to a matter that is already before, the Council, or
  - b) is the election of a chairperson to preside at the meeting as provided by clause 236(1) or
  - c) is a matter or topic put to the meeting by the chairperson in accordance with clause 243, or
  - d) is a motion for the adoption of recommendations of a Committee of the Council.
- 3) Despite sub-clause (1) business may be transacted at a meeting of a Council, even though due notice of the business has not been given to the Councillors, However, this can happen only if:
  - a) a procedural motion is passed to have the business transacted at the meeting, and
  - b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice.
- 4) Despite Clause 250 only the mover of a motion referred to in sub-clause 3 can speak to the motion before it is put.

When a matter is brought before a Council or Committee meeting, as a matter of urgency, the Mayor or Chairperson must clearly state the reason(s) for ruling that the matter is urgent and cannot be transacted through some other means. Such reasons will be recorded in the minutes.

*Relates to Section 367 LG Act & Clauses 236, 241, 243 & 250 Regulations*



### **3.7. Calling of Extra Ordinary Meetings**

The Mayor or General Manager shall be empowered to call an Extra Ordinary meeting. If the Mayor receives a request in writing signed by at least 2 Councillors (the Mayor may be a signatory to that request), the Mayor must call an extraordinary meeting of the Council to be held as soon as practicable but in any event within 14 days after receipt of the request. Except in the case of an emergency, three days notice detailing the time and place of the meeting must be given.

*Relates to Section 367 LG Act & Clause 232 Regulations*

### **3.8. Agenda for Extra Ordinary Meeting**

- 1) The General Manager must ensure that the agenda for an Extra Ordinary meeting of a Council deals only with the matters stated in the notice of the meeting.
- 2) Despite part 1) above, business may be transacted at an Extra Ordinary meeting of a Council, even though due notice of the business has not been given to the Councillors, if:
  - a) a procedural motion is passed to have the business transacted at the meeting, and
  - b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency and the reason for urgency be stated.

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

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

*Relates to Clauses 242 & 250 Regulations*

### **3.9. Call to Order by Chairperson**

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

*Relates to Clause 255 Regulations*

### **3.10. Precedence of Chairperson**

When the chairperson rises during the meeting of a Council:-

- any Councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat; and

- every Councillor must be silent to enable the Chairperson to be heard without interruption.

This clause also applies to the Chairperson of Council Committees.

*Relates to Clause 237 Regulations*

### **3.11. Formalising Mayoral Actions**

Should the Mayor or person acting in the capacity of Mayor, exercise the policy making function of Council between meetings, the Mayor or person acting in the capacity of Mayor shall report that action to the next Council meeting.

## **4. MOTIONS**

### **4.1. Duty of Chairperson regarding Motions**

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

*Relates to Clause 238 Regulations*

### **4.2. Motions Generally**

When a motion is moved and not seconded the Chairman will allow the mover to speak for a maximum of two minutes before again calling for a seconder. If the Motion is seconded the mover shall be allowed to continue to speak for a further three minutes. If the Motion is not seconded it will lapse.

This clause does not apply to any procedural motion, motion of adjournment, or motion to amend a motion before the meeting.

### **4.3. Amendments to Motions**

Amendments must be dealt with before voting on the original motion takes place.

If the amendment is put and declared:

- (a) carried, it then becomes the motion, and the new motion is debated or
- (b) if lost, the motion remains in its original form.

An amendment to a motion cannot be accepted if its intent is to negative the motion being debated.

### **4.4. Foreshadowed Motions**

During debate on a motion a Councillor may indicate their intention to foreshadow a motion and its content after the motion is put. The foreshadowed motion will only be considered if the original motion is lost.

No more than one motion and one proposed amendment can be before the council at any one time

*Relates to Clause 247 Regulations*

#### **4.5. Procedural Motions**

When a Procedural Motion is moved, only the mover can speak to the motion before it is put.

- 1) Procedural Motions relating to the conduct of meetings may be moved by a Councillor without notice.
- 2) Procedural Motions may be moved without notice and if adopted shall take precedence over all other business.
- 3) No debate on a Procedural Motion shall occur.
- 4) If a resolution from a Procedural Motion to recommit an item is adopted, the Chair is then required to determine whether he or she considers the matter to be of great urgency and rule accordingly, and provide a reason for that ruling. The Chair shall also rule whether it is deemed consistent with the spirit of the Code of Meeting Practice, such as, for example, to declare a conflict of interest or an item in a committee report was inadvertently overlooked and then if so deemed, allow for the item to be recommitted.

#### **4.6. Recommendations from Committee Reports to Council**

If a motion is withdrawn for further consideration from a Committee report and is moved 'as printed' with no formal opposition the Chairperson should encourage the speaker to take the minimum amount of time to present their arguments.

#### **4.7. Notices of Motion**

Notices of Motion must be submitted to the General Manager at least seven days before the meeting. Councillors may use the Notice of Motion forms that are available in the drawers at the Council table.

Notices of Motion may be submitted to the Development Committee or Policy and Resources Committee if appropriate instead of the Ordinary Council Meeting.

The General Manager may provide supporting notes or comments to a Notice of Motion.

#### **4.8. Rescission Motions – Council and Core Committee Meetings - when Acting Under Delegated Authority**

This clause applies to Rescission Motions arising from an Ordinary Meeting or a Core Committee meeting when acting under delegated authority.

If a rescission motion is lodged before the close of a Council meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with. A rescission motion lodged after the closure of a Council meeting may not prevent the original decision being acted upon. Rescission motions cannot be debated or

considered at the same meeting as the original motion and will be referred to the next available Extra Ordinary or Ordinary meeting of Council.

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

These provisions do not relate to Committee meetings when the decision of the Committee is only a Recommendation to Council.

Councillors may use the Rescission Motion forms that are available in the drawers at the Council table.

*Relates to Section 372 LG Act*

#### **4.9. Removal of a Notice of Motion from Business Paper**

This provision must not be used without the consent of the signatories of the Notice of Motion.

If a Councillor withdraws their signature to a Notice of Motion or Rescission Motion that is before Council, the Mayor shall call for another signatory. In the event of no other signatory being received, the motion is deemed to have lapsed.

#### **4.10. Motions of dissent**

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

- 2) If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 3) 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.

*Relates to Clause 248 Regulations*

#### **4.11. Limitation of Speakers at Council meetings**

- 1) A Councillor who, during a debate at a meeting of a Council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- 2) A Councillor, other than the mover of the original motion, has the right to speak once on the motion and once on each amendment to it. The mover and seconder are entitled to hold over their speaking rights until later in the debate.
- 3) A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. This limit does not include time involved in questions or responses to questions of Councillors. However, the chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 4) Despite sub-clauses (1) and (2) a Councillor may move that a motion or an amendment be now put:
  - a) If the mover of the motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it, or
  - b) If at least 2 Councillors have spoken in favour of the motion or amendment and at least 2 Councillors have spoken against it.
- 5) The chairperson must immediately put to the vote, without debate, a motion moved under subclause (4). A seconder is not required for such a motion.
- 6) If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause (1).
- 7) If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 8) Notwithstanding the above, Council may, without notice, resolve into Committee of the Whole. When this occurs, the speaking limits contained in this clause do not apply. In such a case it is necessary to resolve to move out of the Committee of the Whole before the matter is adopted by Council.

*Relates to Clause 250 Regulations*

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#### **4.12. Right of Reply**

The mover of an original motion shall have right of reply to any amendment to the original motion without closing debate on the motion. The mover of an original motion shall have right of reply to the original motion after which debate on the motion is closed.

#### **4.13. Motions of Adjournment**

- 1) Debate shall not be permitted on any motion for adjournment of a meeting of the Council.
- 2) If a motion for adjournment is lost, 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 lost.
- 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 a time, date and place of the adjourned meeting, the Chairperson shall make a determination with respect to whichever of these has not been specified or in the event the Chairperson does not then the General Manager shall make the Determination.

#### **4.14. Motions of No Confidence:**

Motions of no confidence in the Mayor or Chairperson are to be deemed to be out of order and are not to be accepted.

#### **4.15. Motions of Censure**

- 1) A Notice of Censure may be introduced on a report of the Conduct Committee. A Notice of Censure must identify the disorderly act or the alleged breach of the Code of Conduct.
- 2) A Notice of Censure not complying with the above is deemed to be out of order and is not to be accepted by the Chairperson.

#### **4.16. Suspension of a Delegated Authority**

- 1) If a Councillor wishes to have any aspect of a delegation of authority to the General Manager or other staff member withdrawn in respect of a specific matter, then this shall be done by way of Notice of Motion to a Council meeting, in accordance with the requirements of this Code.
- 2) The Notice of Motion must clearly state the reasons for seeking the withdrawal of the delegated authority.
- 3) Upon receipt of a written Notice of Motion making such request, the General Manager shall take such measures as are necessary to temporarily cease consideration or action on the particular matter until the Notice of Motion has been resolved by Council at the next meeting of Council. The General Manager may take such measures as are necessary to ensure that any cessation of work is consistent with safe work practices and does not place members of staff or the public at risk.
- 4) The Notice of Motion is to be submitted to the next available Council meeting for consideration.

- 5) In considering the Notice of Motion, the Council must first determine whether it wishes to suspend the exercise of the delegated authority, before considering the substantive matter.
- 6) The Mayor may provide in writing to the General Manager at any time, the suspension of a delegation.
- 7) If the Mayor makes a request to the General Manager for the suspension of a delegation, the Mayor must report to the Council at the next available meeting the request and the reasons for the request.

#### **4.17. Certain Circumstances do not Invalidate Council Decisions**

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

- a) a vacancy in a civic office, or
- b) a failure to give notice of the meeting to any Councillor or committee member, or
- c) any defect in the election or appointment of a Councillor or committee member, or
- d) a failure of a Councillor or a committee member to disclose a pecuniary interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a Council or committee meeting in accordance with section 451, or
- e) a failure to comply with the Code of Meeting Practice.

*Relates to Section 374 LG Act*

## **5. CONFLICTS OF INTEREST**

### **5.1. Declaration of Interest**

A Councillor intending to declare an interest in respect to an item in a business paper should declare their interest and fill out the appropriate form. These (green) forms will be provided with the meeting documents or upon request. They shall declare their interest at the commencement of the meeting or immediately prior to the item being debated or both.

The type (as listed below) and nature of the interest must be stated when making a declaration:

- Pecuniary
- Significant non pecuniary
- Less than significant non pecuniary

A declaration made at a Committee meeting will be retained in the committee report to Council. Councillors shall verbally reaffirm that declaration at the Ordinary meeting.

### **5.2. What is a pecuniary interest**

A pecuniary interest is an interest in a matter because of a reasonable likelihood of appreciable gain or loss to the person. This includes interests relating to:

- a spouse or de facto partner
- a relative and / or their partner

- business / company owned
- employees

Such declarations will be recorded in the minutes.

### **5.3. Declaration of Pecuniary Interest**

- 1) A Councillor or member following declaration of a **pecuniary** interest and the nature of the interest must not be present at, or in sight of, the meeting of the Council or committee.
  - i) At any time during which the matter is being considered or discussed by the Council or committee, or
  - ii) At any time during which the Council or committee is voting on any question in relation to the matter.

*Relates to Section 451 LG Act*

- 2) When a Councillor or member leaves a meeting following a declaration of a pecuniary interest in a matter before Council or a Council Committee, and remains in close proximity of the meeting room during consideration of the item, such Councillor or member is to be informed when the matter has been finalised and is are to be given the opportunity to return to the meeting before considering the next item of business.

**Note:** The pecuniary interest provisions should apply to all Committees subject to this Code.

### **5.4. Declaration of Non-Pecuniary Interest**

A Councillor following a declaration of a non-pecuniary interest and the nature of the interest at a meeting may, at his/her discretion, taking into account the particular circumstances of the interest:

- 1) Take no action
- 2) Limit his/her involvement ( participate in discussion but not vote on the matter) or
- 3) Leave the room.
- 3) If a Significant Non – Pecuniary Conflict of Interest - have no involvement in the matter, by absenting and not taking part in any debate or voting on the issue as if the provisions in Section 451(2) of the *LG Act* apply.

### **5.5. What is a significant Non-Pecuniary Conflict of Interest (Extracted from Code of Conduct)**

- 1) 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.
- 2) If a Councillor determines that a non-pecuniary conflict of interests is less than significant (as described above) and does not require further action, that Councillor shall provide an explanation of why the conflict does not require further action in the circumstances.
  - 3) A Councillor who has disclosed that a significant non pecuniary conflict of interest exists may participate in a decision to delegate Council's decision-making role to Council staff, 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 7.17(b) of the Code of Conduct)

In respect to any declaration made in accordance with this Part, the reason for that declaration and the action taken by the Councillor on that particular matter will be recorded in the Minutes.

## **5.6. Special Disclosure of Interest**

Councillors may participate in discussion and voting on Local Environmental Plans that apply to a significant part of the Council area, subject to the completion of the Special Disclosure Form being completed before the meeting and the declaration of the interest being noted in the minutes.

The Special Disclosure Form will be provided with the meeting documents when consideration of Local Environmental Plans that apply to a significant part of the Council area are included in the items of business.

## **6. POLITICAL DONATIONS**

### **6.1. Political donations exceeding \$1,000**

- 1) Councillors should note that matters before Council involving political or campaign donors may give rise to non-pecuniary conflict of interests.
- 2) Councillors should take all reasonable steps to ascertain the source of any political contributions that directly benefit their election campaigns. For example, Councillors should have reasonable knowledge of contributions received by them or their "official agent" (within the meaning of the Election Funding Act 1981) that directly benefit their election campaign.
- 3) Where a Councillor or the Councillor's "official agent" has received "political contributions" or "political donations", as the case may be, within the meaning of the Election Funding and Disclosures Act 1981 exceeding \$1,000 which directly benefit their campaign:
  - from a political or campaign donor or related entity in the previous four years; and

- where the political or campaign donor or related entity has a matter before council, then the Councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 7.17(b) of the Code of Conduct – i.e. have no involvement in the matter by not taking part in debate or voting on the matter
- 4) Councillors should note that political contributions below \$1,000, or political contributions to a registered political party or group by which a Councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.
  - 5) If a Councillor has received a donation of the kind referred to in clause 7.23 of the Code of Conduct, that Councillor is not prevented from participating in a decision to delegate council's decision-making role to council staff or appointing another person or body to make the decision in accordance with the law (see clause 3.14 (c) above). When disclosing an interest under this clause, Councillors are required to identify the name of the campaign donor.

## **7. VOTING**

Voting at all Council meetings shall be by open means, except in the case of the election of the Deputy Mayor and Assistant Deputy Mayor, where the meeting at which that item is considered shall determine the method of voting.

### **7.1. Record of Voting**

- 1) Voting by Councillors at Ordinary Council Meetings and Core Committee meetings will be recorded if the decision is not unanimous.
- 2) Voting by Councillors on all planning decisions (eg. Development Applications, Local Environmental Plans and Development Control Plans) will also be recorded in Ordinary Council meetings and Core Committees. This information will be kept in a register and will be made publicly available.
- 3) The Minute Secretary shall record the votes after the Chairperson names or otherwise identifies each Councillor voting for and against the motion.
- 4) Where the Chairperson does not name a Councillor as having voted for or against the motion and that Councillor is in attendance at the meeting, the record of voting shall show that Councillor as having voted in the negative.

Note: This does not apply where a Councillor has declared an interest in the item.

*Relates to Section 375A LG Act*

### **7.2. Casting Vote**

The Mayor, in the case of Council meetings, and the Chairperson in the case of Committees shall be entitled to a casting vote.

Should the Mayor/Chairperson fail to exercise a casting vote, the motion being voted on shall be lost.

*Relates to Section 370 LG Act*

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## **8. DEPUTATIONS**

### **8.1. Deputations to Committee Meetings**

- 1) Deputations will only be permitted to the Committees of Council and must relate to business before the Committee.
- 2) One speaker for and against each item will be permitted to address a committee except in extenuating circumstances.
- 3) An individual or representative group is only permitted to address a Committee once on an issue except where the Committee resolves otherwise on the basis that new material has been presented, and in this case the comments are limited to that new material.
- 4) The Chairperson of the committee is authorised to grant approval for deputations up until 12.00 noon on the day of the meeting.
- 5) Where requests are received for a deputation after the issue of the Notice of Meeting they will be dealt with in accordance with this Policy except such requests for deputations may be declined when it is considered time will not permit the matter to be heard.
- 6) If the Mayor, Chairperson or General Manager as the case may be approves a deputation as provided for in this clause, where practical, notification is to be given to the Executive Support Staff who shall notify Group Directors.
- 7) Where more than one request is received to address a Committee either for or against a proposal, the individuals and/or groups involved will be encouraged to appoint one representative to present their submission.
- 8) Where more than one person is granted permission to address a committee on the same issue every endeavour will be made to ensure that the information being presented by the different people cover different aspects of the proposal and there is not an unnecessary repetition of the same argument.
- 9) Where an individual or organisation is granted permission to address a committee they be informed that: -
  - a. Maximum time permitted is five (5) minutes.
  - b. One main spokesperson is to be nominated to address the Committee.
  - c. Comments which may cast reflection on any organisation or individual are to be avoided as these comments can be regarded as public statements.
  - d. Information from a deputation is placed on the public record and can be distributed / displayed.
- 10) The Committee may vary this Code to allow for additional speakers in the event that a resolution is carried the effect of which deems that the matter is of sufficient importance to warrant a deviation from this Code.

### **8.2. Deputations to Ordinary Meetings**

Council may permit a deputation on any item before Council which has not been previously considered by a Committee where for reasons such as delay, it is undesirable to refer the matter back to a Core Council Committee. And further that:

- 1) These deputations be limited to five minutes duration with one speaker in favour and one against.
- 2) Requests for deputations must be made to the Mayor or General Manager no later than 12 noon on the day of the Ordinary meeting.
- 3) If the Mayor or General Manager as the case may be approves a deputation as provided for in this clause, where practical, notification is to be given to the Executive Support Staff who shall notify Group Directors.
- 4) Council may vary this Code to allow for additional speakers in the event that a resolution is carried to that effect which deems that the matter is of sufficient importance to warrant a deviation from this Code.
- 5) If new issues are introduced at that deputation, the matter is not to be considered by Council at that meeting unless those issues are of a minor nature and staff can clarify those issues at the meeting. If the issues are significant, and cannot be clarified, the matter may be deferred to the next available meeting to allow staff sufficient time to consider and report on the matters raised in the deputation. If the Council and responsible Director agree that no new matters are raised in the deputation, the item may be considered at that meeting.

## **9. OTHER PROCEDURAL MATTERS**

### **9.1. Public Representation Regarding Closed Meetings**

Council is committed to conduct its activities and functions in an open and transparent manner and all meetings subject to this Code are open to the press and public to attend.

In circumstances where business is considered to be of a confidential nature as defined in Section 10A of the Local Government Act 1993, the provisions of the Act and Regulations will be strictly adhered to.

Incorporated into the resolution to consider the confidential items will be an explanation of the way in which discussion of the matter in an open meeting would be on balance, contrary to the public interest (unless the matter relates to a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret).

Where Council or a Committee decides to allow members of the public to make representation on a proposed closure of a meeting the following procedure shall apply: -

- After a motion has been moved and seconded to close part of a meeting to the public the chairperson shall ask the General Manager if there are any written representations from the public on the proposed closure.
- The General Manager shall read out any written representation.
- The Chairperson shall ask if any persons wish to make verbal representations. The time limit for receiving such representations and number of representations shall be at the discretion of the Chairperson having regard to the number of people present at the time the motion is presented and having regard to the subject matter being discussed.
- The Chairperson shall invite each person alternating on a “for” and “against” basis to speak on the motion.

- Each speaker shall be permitted to speak for one minute however the Chairperson shall have the discretion to extend the time by a maximum of two minutes having regard for the subject matter being discussed.

## **9.2. Time Limit of Meetings**

- 1) The hours of Council meetings shall generally be as determined by Council at the Call meeting in September or by resolution.
- 2) Council meetings will generally commence at 5.00 pm and will be adjourned to another day if business is not concluded by 9.00 pm.
- 3) Meetings will be adjourned for a period of 10 minutes after two (2) hours of business. (Refer MIN17.188)

## **9.3. Multipurpose Devices**

Multipurpose devices used during a meeting must be on silent mode and not disrupt the meeting. The Chairperson may rule that a device is switched off.

## **9.4. Petitions**

The exact wording of petitions tabled at meetings of the Council shall be recorded in the minutes of that meeting. In the event a petition contains 500 or more signatures is presented to a Council meeting the subject matter of the petition shall trigger a report from the General Manager to the next Ordinary Meeting of Council.

## **9.5. Development Approval Process**

In any circumstances where a Development Application is called-in by Council for determination the resolution shall include reasons for doing so.

Reasons will also be recorded for decisions, approval or refusal, involving Development Applications seeking approval for significant variations to Council policies, Development Control Plans or other development standards. (Refer MIN08.907)

## **9.6. Caucusing**

Binding caucus votes on matters is inconsistent with the obligation of each Councillor to consider the merits of the matter before them. Political group meetings must not be used to decide how Councillors should vote on matters where there are specific statutory considerations for each decision maker to consider.

## **9.7. Acts of disorder**

- 1) A Councillor commits an act of disorder if the Councillor, at a meeting of a Council or a Committee of a Council:
  - a) contravenes the Act or any regulation in force under the Act, or
  - b) assaults or threatens to assault another Councillor or person present at the meeting, or
  - c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council

- or committee, or addresses or attempts to address the Council or committee on such a motion, amendment or matter, or
- d) insults or makes personal reflections on or imputes improper motives to any other Councillor or staff member, or
  - e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt.
- 2) The chairperson may require a Councillor:
- a) to apologise without reservation for an act of disorder referred to in subclause (1) (a) or (b), or
  - b) to withdraw a motion or an amendment referred to in part 1) c) above and, where appropriate, to apologise without reservation, or
  - c) to retract and apologise without reservation for an act of disorder referred to in part 1) d) or e) above.
- 3) A Councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of a Council for having failed to comply with a requirement under part 2) above. The expulsion of a Councillor from the meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

*Relates to Clause 256 Regulations*

*Relates to Section 226 LG Act*

### **9.8. Use of Electronic Overhead Screen**

During Council or Committee meetings recommendations (from staff reports), motions and amendments will be shown on an overhead electronic screen prior to voting. Should a Councillor wish to move a substantial motion or amendment, a copy of the wording should be provided to the Minute Taker by email ([Clminutes@shoalhaven.nsw.gov.au](mailto:Clminutes@shoalhaven.nsw.gov.au)).

### **9.9. How Disorder is Dealt with**

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

A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of a Council for engaging in or having engaged in disorderly conduct at the meeting.

*Relates to Clause 257 Regulations*

### **9.10. Power to Remove Persons from Meeting after Expulsion**

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

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

*Relates to Clause 258 Regulations*

### **9.11. Points of Order**

A Councillor may draw the attention of the Chairperson to an irregularity in the meeting procedures by raising a Point of Order.

A Point of Order does not require a seconder and must be raised immediately the irregularity occurs and the speaker at the time may be interrupted.

The Chairperson must suspend the business before the meeting to allow the Councillor raising the Point of Order to state the meeting procedure alleged to have been infringed.

The Chairperson will subsequently either uphold the Point of Order or overrule it and the business before the meeting can then continue.

### **9.12. Recording of Council meeting**

- 1) Council will allow the electronic recording by any person of an open session of any council meeting and open meetings of committees.
- 2) Under no circumstances shall any confidential session of a council or committee meeting be electronically recorded
- 3) A statement be made by the chairperson at the commencement of meetings subject to subclause (1) above to advise those in attendance that their image and voice whilst at the meeting may be captured and/or broadcast and their continuing attendance is acceptance of that recording.”
- 4) An advisory note be placed on agendas for all meetings and signage in the council chambers advising recording is permitted.

*Relates to Clause 273 Regulations, MIN08.1363 & MIN16.693*

### **9.13. Implementation**

The Chairperson of the Council meeting or the Committee meeting has responsibility for ensuring compliance with this Code.

### **9.14. Numbers Permitted in the Council Chamber**

Numbers attending Council meetings in the Council Chambers is limited because of Work Health and Safety Requirements. The maximum number of people attending meetings in the Chamber (including Councillors and staff) shall not exceed 155. When the number of 155 is

exceeded, the doors are to be secured in an unlocked and open position and remain in that position while the numbers are present. Seating may be permitted in the aisles so as to allow access of a minimum of two metres.

Where it is anticipated that the number in the chamber is likely to exceed 155 arrangements are to be made for staff to be positioned at the entrance doors to assist and regulate public entry. If possible, arrangements will be made for the installation of amplifiers to be installed outside the chamber to allow the public to hear the proceedings.

#### **9.15. Council Advisory and Other Committees - Public Access**

Agendas and Business Papers of Councils Special Interest Committees, Boards and Advisory Groups will be published on the internet prior to the meeting. Meetings will be open to the public except during confidential sessions. Minutes will also be published on the internet.

#### **9.16. Committee Meeting Attendance**

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

The Senior Staff Contracts Committee remains as a confidential committee but available for all Councillors to attend.

*Relates to Clause 263 Regulations*

#### **9.17. Council Meetings – Addendum Reports**

No addendum reports are to be submitted for consideration at a Council Meeting, except where the items contained therein are of an urgent nature at the discretion of the General Manager in consultation with Group Directors or Committee reports referred to in Part 3.6.

### **10. REVIEW**

This code will be reviewed within one year of the election of every new Council.

### **11. APPLICATION OF ESD PRINCIPLES**

None Applicable