

Council of the Shire of Lachlan



CODE OF MEETING PRACTICE

Amended November 2005

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TABLE OF AMENDMENTS AND UPDATES INCLUDED IN CODE

Date of Council Detail Resolution	Reason of Amendment	Source of Amendment or
February 19, 1997	Date of Original Adoption	
September 1998	Change to Council Policy	
June 1999	Change to Council Policy	
January 2000	Change to Council Policy	
May 2000	Change to Council Policy	
August 2001	Addition of Public Forum	
April 2004	Readopted by New Council	
February 2005	Change to Council Policy	Council Minute 162/05
November 2005	Change to Council Policy	Council Minute 958/05



LACHLAN SHIRE COUNCIL CODE OF MEETING PRACTICE

PART 1 - PRELIMINARY

Citation

1. This Code may be cited as the Lachlan Shire Council Code of Meeting Practice.

Definitions

2. (1) In this Code:

amendment, in relation to an original motion, means a motion moving an amendment to that motion; **(Meeting Regulations - Definitions)**

chairperson,

- (a) in relation to a meeting of the Council - means the person presiding at the meeting as provided by Clause 12 of this Code; and
- (b) in relation to a meeting of a committee - means the person presiding at the meeting as provided by Clause 50 of this Code; **(Meeting Regulations – Definitions – Reg – CI 3))**

committee means a committee established under Clause 43(1) or the Council when it has resolved itself into a committee of the whole; **(Reg - CI 3)**

member means a councillor or a person other than a councillor who is a part of a committee of council.

present (at a meeting or discussion) means being within the Council Chamber during the meeting or discussion, as the case may be.

record means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a councillor or an employee of the Council and, in particular, includes the minutes of meetings of the Council or of a committee of the Council; **(Meeting Regulations – Definitions – Reg – CI 3))**

regulation means the Local Government (Meetings) Regulation 1993.

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



- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;
- (b) the spouse or the defacto partner of the person or of a person referred to in paragraph (a). **(Refer LGA Dictionary)**

standing committees refers to those committees appointed by Council each year in September of which members are mainly councillors and staff. These committees include Budget Review; Retirement Village; Bush Fire; Australia Day Citizen; Plant; Gum Bend Lake; Employment Development & Tourism; Medical Trust; Syerston Mine; Law & Order; Water Supply and Sewerage Steering; and Caravan Park Review Committees.

the Act means the Local Government Act 1993; **(As Amended)**

the Code means the Lachlan Shire Council Code of Meeting Practice; and the Regulation means the Local Government (Meetings) Regulation 1993.

- (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.

(LGA - S 44) means reference to Section 44 of the Local Government Act 1993

(Reg - Cl 12) means reference to Clause 12 of the Meeting Regulations, 1999

Act and Regulation

- 3. (1) This Code is made pursuant to section 360(2) of the Act.
- (2) It incorporates relevant provisions of the Regulation and the Act.
- (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.

Notes to text

- 4. 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

Frequency of meeting of the Council

5. (1) The Council is required to meet at least 10 times each year, each time in a different month. **(LGA - S 365)**
- (2) Except as otherwise provided by this Code the Ordinary Meetings of the Council shall be held in the Council Chambers Condobolin on the third Wednesday of each month, commencing at 10.00am.
- (3) Council shall hold two Ordinary Council Meetings each year in centres of the Shire other than Condobolin. These centres shall include Lake Cargelligo, Tottenham and Tullibigeal on a rotational basis with one visit to each of Burcher and Fifield during the Council term.
- (4) The Council may in special circumstances by Resolution vary the times and dates of ordinary Standing Committees and ordinary Council Meetings from the adopted calendar.

Call of the Council

6. (1) Any Councillor who is absent without prior leave of the Council from 3 consecutive ordinary meetings of the Council shall be disqualified from holding civic office. **(LGA - S 234)**

Extraordinary meetings

7. (1) The Mayor may call extraordinary meetings of the Council.
- (2) If the Mayor receives a request in writing signed by at least 2 councillors, the Mayor must call an extraordinary meeting of the Council to be held as soon as practicable but in any event within fourteen (14) days after the receipt of the request. **(LGA - S 366)**
- (3) If the Mayor fails, within 3 working days of receipt of a request pursuant to subsection (2), to give a direction to the General Manager for the sending of notices to councillors for an extraordinary meeting to be held within the period specified in subsection (2), the General Manager must send a notice to each councillor specifying that the meeting be held within fourteen (14) days following the date of receipt of the request.
- (4) For the purpose of subsection (3), a working day is a day that is not a Saturday, Sunday or public holiday.



Notice of meetings

8. (1) The General Manager of the Council must send to each councillor, at least 10 clear 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. **(LGA - S 367(1))**
- (1) The General Manager of the Council must send to each councillor, at least 5 clear days before each meeting of the Council the business proposed to be transacted at the meeting. **(LGA - S 367(1))**
- (2) Notice of less than 10 days may be given of an extraordinary meeting called in an emergency. **(LGA - S 367(2))**

Quorum

9. 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. **(LGA - S 368)**

What happens when a quorum is not present?

10. (1) A meeting of the Council must be adjourned if a quorum is not present:
 - (a) within half an hour after the time designated for the holding of the meeting; or
 - (b) at any time during the meeting. **(Reg - CI 6(1))**
- (2) In either case, the meeting must be adjourned to a time, date and place fixed:
 - (a) by the chairperson; or
 - (b) in his or her absence - by the majority of the councillors present; or
 - (c) failing that, by the General Manager. **(Reg - CI 6(2))**
- (3) The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the councillors present. **(Reg - CI 6(3))**

Presence at Council meetings

11. A councillor cannot participate in a meeting of the Council unless personally present at the meeting. **(Reg CI 8)**



PART 3 - PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

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. **(LGA - S369(1))**
- (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. **(LGA - S 369(2))**
- (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. **(Reg - CI 9(1))**
- (4) The election referred to in CI (3) above must be conducted:
 - (a) by the General Manager or, in his absence, an employee of the Council designated by the General Manager to conduct the election; or
 - (b) if neither of them is present at the meeting or there is no General Manager or designated employee - by the person who called the meeting or a person acting on his or her behalf. **(Reg - CI 9(2))**
- (5) If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot. **(Reg - CI 9 (3))**
- (6) For the purpose of subclause (5), the person conducting the election must:
 - (a) arrange the names of the candidates who have equal numbers of votes to be written on similar slips; and
 - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random. **(Reg - CI 9 (4))**
- (7) The candidate whose name is on the drawn slip is the candidate who is to be chairperson. **(Reg - CI 9 (5))**

Chairperson to have precedence



13. When the chairperson rises or speaks during a meeting of the Council:
- (a) any councillor then speaking or seeking to speak must immediately, if standing, resume his or her seat; and
 - (b) every councillor present must be silent to enable the chairperson to be heard without interruption. **(Reg - CI 10)**

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.
- (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. **(Reg - CI 11)**

Confirmation of Minutes

15. (1) The council must ensure that full and accurate minutes are kept of proceedings of the Council. **(LGA - S 375 (1))**
- (2) The correctness of the minutes of every preceding meeting, including extraordinary meeting, not previously confirmed must be dealt with at every ordinary meeting of the Council, in order that such minutes may be confirmed.
- (3) A motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.
- (4) Minutes may be confirmed at an extraordinary meeting of the Council.
- (5) The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting. **(LGA - S 375(2))**

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 A. **(Reg CI 12(1))**



- (2) The order of business fixed under subclause (1) may be altered if a motion to that effect is carried. Such a motion can be moved without notice. **(Reg CI 12 (2))**
- (3) Despite Clause 29, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put. **(Reg - CI 12(3))**

Agendas for Council meetings

17. (1) The General Manager must ensure that the agenda for a meeting of the Council states:
 - (a) all matters to be dealt with arising out of the proceedings of former meetings of the Council; and **(Reg – CI 13(1)(a))**
 - (b) if the Mayor (or the Deputy Mayor if acting for the Mayor) is the chairperson any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting. **(Reg – CI 13(1)(b))**
 - (c) subject to subclause (2), any business of which due notice has been given. **(Reg - CI 13(1)(c))**
- (2) the General Manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report (without giving details of the item of business) any such exclusion to the next meeting of the Council. **(Reg – CI 13(2))**
- (3) the General Manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting. **(Reg – CI 13(3))**
- (4) the General Manager must ensure that the details of any item of business to which Clause 63(3) applies are included in a business paper for the meeting concerned. **(Reg – CI 13(4))**
- (5) nothing in this clause limits the powers of the chairperson under clause 20. **(Reg – CI 13(5))**

Giving notice of business

18. (1) The Council must not transact business at a meeting of the Council:

- (a) Unless notice of business in writing has been given signed by a councillor by 9.00am on the seventh (7th) day preceding the meeting
 - (b) unless notice of business has been sent to the councillors at least 5 clear days before the meeting, or, in the event of an extraordinary meeting called in an emergency, at least one day. **(Reg - CI 14 (1)(b))**
- (2) A notice under this clause 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. **(LGAct – S367(3))**
- (3) Subclause (1) does not apply to the consideration of business at a meeting if the business:
- (a) is already before, or directly relates to a matter that is already before, the Council, or **(Reg – CI 14(2)(1))**
 - (b) is the election of a chairperson to preside at the meeting as provided by Clause 12(3), or **(Reg – CI 14(2)(b))**
 - (c) is a matter or topic put to the meeting by the chairperson in accordance with Clause 20, or **(Reg – CI 14(2)(c))**
 - (d) is a motion for the adoption of recommendations of a committee of the Council. **(Reg – CI 14(2)(d))**
 - (e) 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.
- (4) Despite subclause (1), business may be transacted at a meeting of the Council even though due notice of the business has not been given to councillors. However, this can only happen if:
- (a) a motion is passed to have the business transacted at the meeting; and
 - (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.
- Such a motion can be moved without notice. **(Reg – CI 14(3))**
- (5) Despite Clause 29, only the mover of a motion referred to in subclause (4) can speak to the motion before it is put. **(Reg - CI 14(4))**

Agenda for extraordinary meeting

19. (1) The General Manager must ensure that the agenda for an extraordinary meeting of the Council deals only with the matters stated in the notice of the meeting. **(Reg – CI 15(1))**
- (2) Despite subclause (1), business may be transacted at an extraordinary meeting of the Council even though due notice of the business has not been given to Councillors. However, this can only happen if:
- (a) a motion is passed to have the business transacted at the meeting; and
- (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.
- Such a motion can be moved without notice, but only after the business notified in the agenda for the meeting has been disposed of. **(Reg - CI 15 (2)).**
- (3) Despite Clause 29, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put. **(Reg - CI 15(3))**

Official minutes

20. (1) If the Mayor (or the Deputy Mayor, if acting for the Mayor) is the chairperson at a meeting of a council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the Council of which the Council has official knowledge. **(Reg – CI 16(1))**
- (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. **(Reg – CI 16(2))**
- (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. **(Reg - CI 16(3))**
- (4) The General Manager must ensure that the following matters are recorded in the Council's minutes:

- (a) details of each motion moved at a Council meeting, and of any amendments moved to it,
 - (b) the names of the mover and seconder of the motion or amendment,
 - (c) whether the motion or amendment is passed or lost. **(Reg – CI 27)**
- (5) (a) The General Manager will ensure that all proceedings of Open Council will be recorded by tape recording for future reference.
- (b) Such recordings will be maintained on Council premises and be reasonably available to any person at the Mayor's or General Manager's discretion.
- (c) such recordings will be retained for a period of a least 6 months.

Report of a Departmental representative to be tabled at Council meeting

21. When a report of a NSW Department of Local Government representative has been presented to a meeting of a Council in accordance with Section 433 of the Act, the Council must ensure that the report:
- (a) is laid on the table at that meeting; and
 - (b) is subsequently available for the information of councillors and members of the public at all reasonable times. **(Reg - CI 17)**

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:
- (a) any other councillor may move the motion at the meeting, or **(Reg – CI 18(a))**
 - (b) the chairperson may defer the motion until the next meeting of the Council at which the motion can be considered. **(Reg - CI 18(b))**

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 29(5). **(Mixture Reg - CI 19 & ord 1 CI 22 and notes under)**

- (2) The seconder of a motion or of an amendment may reserve the right to speak later in the debate, subject to Clause 29(5).
- (3) It is permissible to debate the motion and an amendment concurrently.

How subsequent amendments may be moved

24. 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 but no more than one motion and one proposed amendment can be before the Council at any one time. **(Reg - CI 20)**

Motions of dissent

25. (1) A councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. Such motion of dissent requires seconding and the chairperson must then suspend the business before the meeting until a decision is made on the motion of dissent. **(Reg - CI 21 (1))**
- (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. **(Reg - CI 21(2))**
- (3) Despite Clause 29, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply. **(Reg - CI 21(3))**

Correspondence

26. (1) Correspondence with the Council shall be addressed to the Mayor or General Manager;
- (2) Letters shall not be presented or read by members at meetings of the Council.
- (3) The Council may decide whether or not correspondence shall be read - provided that the report of the Auditor or of a Local Government Inspector, whether read or not, shall be laid on the table and be made available at any reasonable time for the information of members.
- (4) Outward correspondence shall be signed by -

- (a) the Mayor;
- (b) the General Manager, or;
- (c) any employee of the Council authorised by the General Manager.

Questions may be put to councillors and Council employees

27. (1) A councillor:
- (a) may, through the chairperson, put a question to another councillor; and **(Reg - CI 22 (1)(a))**
 - (b) may, through the chairperson and the General Manager, put a question to a Council employee. **(Reg - CI 22(1)(b))**
- (2) However, a councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents. **(Reg - CI 22(2))**
- (3) Any such question must be put directly, succinctly, and without argument. **(Reg - CI 22(3))**
- (4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a councillor or Council employee under this Clause. **(Reg - CI 22(4))**
- (5) Nothing in this Clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting.

Mode of address

28. Councillors shall at all times address other councillors by their official designation, as Mayor or Councillor.

Limitation as to number of speeches

29. (1) A councillor who, during a debate at a meeting of the Council, moved an original motion has the right of general reply to all observations that are made by councillors during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment. **(Reg - CI 23(1))**
- (2) A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it. **(Reg - CI 23(2))**

- (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, unless an extension of time is granted by Resolution of Council. However, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding. **(Reg - CI 23(3))**
- (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. **(Reg - CI 23(4))**
- (5) The chairperson must immediately put to the vote, without debate, a motion moved under subclause (4). A seconder is not required for such a motion. **(Reg - CI 23(5))**
- (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). **(Reg - CI 23(6))**
- (7) If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed. **(Reg - CI 23(7))**

Questions and Statements

30. (1) During the time provided at the Council meeting, every councillor has the right to ask questions or make statements on any issue. Such questions shall only be made where the Mayor has ruled the matters of an urgent nature.
- (2) During Questions and Statements, councillors must not speak for longer than 5 minutes, except if an extension of time is granted as provided in Clause 29(3).

Motions put without debate

31. Provided there is no objection from any councillor present, any motion or recommendation before the Council may be put to the vote without discussion or debate.

Voting at Council meetings

32. (1) Each councillor is entitled to one vote. **(LGA - S 370(1))**
- (2) However, the chairperson has, in the event of an equality of votes, a second or casting vote. **(LGA - S 370(2))**
- (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. This subclause does not apply to a councillor who does not vote because he or she has a pecuniary interest in the subject matter of the motion. **(Reg - CI 24(1))**
- (4) If a councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes. **(Reg - CI 24 (2))**
- (5) The decision of the chairperson as to the result of a vote is final, unless: **(Reg - CI 24 (3))**
- (a) in the case where a vote has been declared on the voices, a councillor immediately requests a show of hands; or
- (b) the decision is immediately challenged and not fewer than 2 councillors rise and demand a division. **(Reg - CI 24(3))**
- (6) When a division on a motion is demanded by two Councillors, the chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes. **(Reg - CI 24 (4))**
- (7) Voting at a Council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in an election by Councillors for Mayor and Deputy Mayor is to be by secret ballot. **(Reg - CI 24(5))**

Note: The *Local Government (Elections) Regulation 1998* provides that a council is to resolve whether an election by the councillors for mayor or deputy mayor is to be by preferential ballot, ordinary



ballot or open voting (Clause 124 and Clause 3 of schedule 3). Clause 3 of schedule 3 also makes it clear that "ballot" has its normal meaning of secret ballot.

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

33. (1) A representation at a Council meeting by a member of the public as to whether a part of the meeting should be closed to the public, can only be made to a period of one (1) minute, (ie - each member of the public will be limited to speaking for no more than one (1) minute each) immediately after the motion to close the part of the meeting is moved and seconded. **(Reg - CI 25)**
- (2) The Mayor, or the Chairperson of the Council meeting, may allow only such number of members of the public to make representations on the proposed closure as is sufficient, in the opinion of the Mayor or Chairperson, to enable the Council to gauge the views of the members of the public present.
- (3) The process that will be followed for public representations will be:
- Step 1 - Mayor call for Motion to go into Committee of the Whole, and that motion is seconded;
 - Step 2 - Mayor then asks of General Manager if any written representations have been received, or then, if any member present in the public gallery wishes to make a verbal representation. Each verbal representation will be limited to one (1) minute per person;
 - Step 3 - After the verbal representations (if any) the Mayor puts the Motion (to go into Committee of the Whole) to the meeting, and if carried, the Committee of the Whole will firstly discuss the matter(s) for which verbal representations have been made (to determine whether or not the subject matter be discussed in Open Council or in Committee of the Whole).
 - Step 4 - When that matter has been decided, the persons who made the verbal representations should be informed as to whether the matter will be discussed in open, or in committee.
 - Step 5 - When the subject matter is decided at Step 3, there will be two ways that the matter can be dealt with - either the Committee of the Whole decided to deal with the matter in Committee of the Whole (despite the representations), or the Committee of the Whole decided to deal with the matter in Open Council. Depending on the decision of the Committee of the Whole, these matters will then be dealt with as follows;
 - i) If decided to be dealt with in Committee of the Whole - continue with the business in the ordinary course (ie the agenda of the Committee of the Whole stays)

- ii) If decided to be dealt with in Open Council - the Committee of the Whole resolved to go back into Open Council, and the matter which has been the subject of representations is dealt with at that stage (ie - agenda of Committee of the Whole stays the same EXCEPT for the matter(s) which have been dealt with in Open Council.)

Decisions of the Council

34. 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. **(LGA - S 371)**

Resolutions passed at closed meetings to be made public

35. If a Council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended. **(Reg – Cl 26)**

Rescinding or altering resolutions

36. (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 18. **(LGA - S 372 (1))**
- (2) If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice may also be given of the proposed further motion.
- (3) (a) If a notice of motion to rescind or alter a resolution is given: **(LGA 372 (2))**
 - (b) 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 **(LGA - 372 (2))**
 - (c) at any time after the meeting at which the resolution was passed such Notice of motion to rescind does not prevent the carrying into effect of the resolution pending the determination of the Notice of motion for rescission.
- (4) If a motion has been negatived 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 18. **(LGA - S 372 (3))**

- (5) 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 3 councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be. **(LGA - S 372 (4))**
- (6) If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within 3 months. This subclause may not be evaded by substituting a motion differently worded, but in principle the same. **(LGA - S 372(5))**
- (7) 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. **(LGA - S 372(6))**
- (8) The provisions of this Clause concerning negated motions do not apply to motions of adjournment. **(LGA - S 372(7))**

Motions of adjournment

37. (1) Debate shall not be permitted on any motion for adjournment of a meeting of the Council.
- (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
- (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

Questions of order

38. (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. **(Reg - CI 28(1))**
- (2) A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter. **(Reg - CI 28 (2))**
- (3) The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council. **(Reg - CI 28(3))**
- (4) The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed. **(Reg - CI 28(4))**
- (5) Whenever it has been decided that any motion, amendment, or other matter is out of order, the same shall be rejected.

(Motion ruled out of order before moved. The Mayor has power to rule a motion out of order before it is moved or seconded.)

Acts of disorder

39. (1) A councillor commits an act of disorder if the councillor, at a meeting of the Council or a committee of the Council: **(Reg - CI 29 (1))**
- (a) contravenes the Act, any regulation in force under the Act or this Code; 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 make personal reflections on or imputes improper motives to any other councillor; or

- (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or committee into contempt;
 - (f) leaves the meeting without the permission of the chairman before all the business has been concluded.
- (2) The chairperson may require a councillor: **(Reg - CI 29(2))**
- (a) to apologise without reservation for an act of disorder referred to in subclause (1)(a) or (b); or **(Reg - CI 29 (2)(a))**
 - (b) to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation; or **(Reg - CI 29 (2)(b))**
 - (c) to retract and apologise without reservation for an act of disorder referred to in subclause (1)(d) and (e). **(Reg - CI 29 (2)(c))**
- (3) A councillor may be expelled from a meeting of the Council or from a committee of the Council by the Chairperson presiding at the meeting, for having failed to comply with a requirement under subclause (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. **(Reg - CI 29 (3) & LGA - S 10 (2))**

How disorder at a meeting may be dealt with

40. (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. **(Reg - CI 30 (1))**
- (2) A member of the public may be expelled from a meeting of the Council or from a committee of the Council by the Chairperson presiding at the meeting, for engaging in or having engaged in disorderly conduct at the meeting. **(Reg - CI 30(2) & LGA - S 10 (2))**

Power to remove persons from meeting after expulsion resolution

41. If a councillor or a member of the public fails to leave the place where a meeting of the Council is being held immediately after the Mayor or the Chairperson of a Council committee, having exercised the authority to expel a person from the Council meeting or a committee meeting a police officer, or any person

authorised for the purpose by the Council or the person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place, and if necessary, restrain the councillor or member of the public from re-entering that place. **(Reg CI 31)**



PART 5 - COUNCIL COMMITTEES

Committee of the Whole

42. (1) The Council may resolve itself into a committee of the whole to consider any matter before the Council, subject to Clause 64(2) of this Code.
- (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 provisions limiting the number and duration of speeches. **(Reg - CI 32 (1))**
- (3) The General Manager or, in the absence of the General Manager, an employee of the Council designated by the General Manager, is responsible for reporting to the Council proceedings in a committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported. **(Reg - CI 32 (2))**
- (4) The Council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the Council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed. **(Reg - CI 32 (3))**

Council may establish committees

43. (1) The Council may appoint or elect such committees as it considers necessary. **(Reg - CI 33 (1))**
- (2) A committee is to consist of the Mayor and such other Councillors as are elected by the councillors or appointed by the Council. **(Reg - CI 33 (2))**
- (3) The quorum for a meeting of a committee is to be:
- (a) such number of members as the Council decides; or
- (b) if the Council has not decided a number - a majority of the members of the committee. **(Reg - CI 33 (3))**

Functions of committees

44. 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. **(Reg - CI 34)**

Notice of committee meetings to be given

45. (1) The General Manager of the Council must send to each councillor, at least 5 clear days before each meeting of the committee, a notice specifying:
- (a) the time and place at which and the date on which the meeting is to be held; and
 - (b) the business proposed to be transacted at the meeting. **(Reg - CI 35 (1))**
- (2) However, notice of less than 5 days may be given of a committee meeting called in an emergency. **(Reg CI 35 (2))**
- (3) The provisions of Clause 16(2) and (3) apply to the business papers and agendas of committee meetings in the same manner as they apply to the business papers and agendas of meetings of the Council.

Non-members entitled to attend committee meetings

46. (1) A councillor who is not a member of a committee of the Council is entitled to attend, and to speak at, a meeting of the committee. **(Reg - CI 36(1))**
- (2) However, the councillor is not entitled:
- (a) to give notice of business for inclusion in the agenda for the meeting, or
 - (b) to move or second a motion at the meeting, or
 - (c) to vote at the meeting. **(Reg - CI 36(2))**

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

47. The procedures as set out in Clause 33 shall be followed where it is proposed that a meeting where all members are councillors is to be closed to the public.

Procedure in committees

48. (1) Subject to subclause (3), each committee of the Council may regulate its own order of business. In particular, a committee must ensure that the following matters are recorded in the committee's minutes:
- (a) details of each motion moved at a meeting and of any amendments moved to it,

- (b) the names of the mover and seconder of the motion or amendment
 - (c) whether the motion or amendment is passed or lost. **(Reg - CI 39 (1))**
- (2) Without limiting subclause (1), and whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote. **(Reg - CI 38 (2))**
- (3) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands) **(Reg - CI 38(3))**

Committee to keep minutes

49. (1) Each committee of council must ensure that full and accurate minutes of the proceedings of its meeting are kept.
- (2) As soon as the minutes of an earlier meeting of a committee of the council have been confirmed at a later meeting of the committee, the person presiding at the later meeting must sign the minutes of the earlier meeting. **(Reg – CI 39(2))**

Chairperson and Deputy chairperson of committees

50. (1) The chairperson of each committee of the Council, must be:
- (a) the Mayor; or
 - (b) if the Mayor does not wish to be the chairperson of a committee - a member of the committee elected by the Council; or **(Reg – CI 40(1))**
 - (c) if the Council does not elect such a member - a member of the committee elected by the committee. **(Reg - CI 40 (1))**
- (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. **(Reg - CI 40(2))**
- (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, prior to the consideration of any business, elect a member of the committee to be acting chairperson of the committee. **(Reg - CI 40 (3))**

- (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 is to preside at the meeting, but if neither the chairperson nor the Deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting. **(Reg - CI 40 (4))**

Absence from committee meetings

51. (1) A member ceases to be a member of a committee if the member (other than the Mayor):
- (a) has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or
 - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences. **(Reg - CI 41(1))**
- (2) Subclause (1) does not apply if all the members of the Council are members of the committee. **(Reg - CI 41(2))**

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

Reports of committees

52. (1) If in a report of a committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation. **(Reg - CI 42(1))**
- (2) The recommendations of a committee of the Council are, so are as adopted by the Council, resolutions of the Council. **(Reg - CI 42 (2))**
- (3) A Committee of the Whole or a Committee of the Council shall not communicate with any outside person or authority except through the Mayor or the General Manager, as the persons of the Council duly authorised for the purpose.
- (4) If a committee of council passes a resolution, or make a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the chairperson must:
- (a) make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended; and

- (b) report the resolution or recommendation to the next meeting of the Council. **(Reg – CI 42(3))**

Disorder in committee meetings

53. 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. **(Reg - CI 43)**

Committee may expel certain persons from its meetings

54. (1) If a meeting or a part of a meeting of a committee of the Council is closed to the public in accordance with 64(2), any person who is not a councillor may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act. **(Reg – CI 44(1))**
- (2) If any such person, after being directed, or notified of a direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the person presiding, may, by using only such force as is necessary, remove the member of the public from that place and, if necessary, restrain the member of the public from re-entering that place. **(Reg CI 44(2))**

Committees shall not have power to incur expenditure

55. A Committee of the Council shall not have power to incur expenditure or to bind the Council. Recommendations or reports of Committees shall not have effect unless and until adopted by the Council. Provided that the Council may delegate to Committees functions of inspection and supervision, and any orders which a Committee may find it necessary to give in pursuance of any such delegation shall be given to or through the General Manager.

PART 6 - PECUNIARY INTERESTS

Pecuniary interest

56. (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 57. **(LGA S 442 (1))**
- (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 58. **(LGA S 442 (2))**

Persons who have a pecuniary interest

57. (1) For the purposes of this Part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
- (a) the person; or
 - (b) another person with whom the person is associated as determined under S 443 of the Local Government Act 1993. **(LGA - S 443 (1))**
- (2) A person is taken to have a pecuniary interest in a matter if:
- (a) the person's spouse or de facto partner or a relative of the person has a pecuniary interest in the matter; or
 - (b) 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. **(LGA - S 443 (2))**
- (3) However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (2):
- (a) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body; or
 - (b) just because the person is a member of, or employed by, a council or a statutory body or is employed by the crown; or **(LGA - S 443 (3))**
 - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has not beneficial interest in any shares of the company or body. **(LGA - S 443 (3)(c))**

Interests that need not be declared

58. The following interests do not need to be disclosed for the purposes of this Part:

- * an interest as an elector
- * an interest as a ratepayer or a person liable to pay a charge
- * 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
- * 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)
- * an interest or 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
- * 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 permissible uses of:
 - (a) land in which the person or another person with whom the person is associated as provided in section 443 has a proprietary interest (which, for the purposes of this paragraph, includes any interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise); or
 - (b) land adjoining, or adjacent to, or in proximity to land referred to in paragraph (a),

if the person or the other person with whom the person is associated would by reason of the proprietary interest have a pecuniary interest in the proposal). **(LGA - S 448)**

Disclosure and participation in meetings



59. (1) A councillor, a member of a Council committee or a member of staff who has a pecuniary interest in any matter with which 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 interest to the meeting as soon as practicable. **(LGA - S 451 (1))**

(2) **General disclosure**

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

(a) a member, or in the employment, of a specified company or other body; or

(b) a partner, or in the employment, of a specified person, is, unless and until the notice is withdrawn, sufficient disclosure of the councillor's or member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice. **(LGA Sec 454)**

(3) The councillor or member or staff member must not take part in the consideration or discussion of the matter. **(LGA - S 451 (2))**

(4) The councillor or member must not vote on any question relating to the matter. **(LGA - S 451 (3))**

(5) A person who, at the request or with the consent of the Council or a Council committee, gives advice on any matter at any meeting of the Councillor committee must disclose any pecuniary interest the person has in the matter to the meeting at the time the advice is given. **(LGA S 456 (1))**

(6) A person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest. **(LGA - S 457)**

Participation in meetings despite pecuniary interests

60. Clause 57 does not prevent a person from taking part in the consideration or discussion of, or from voting on, any of the following questions:

(1) a question relating to a contract, proposed contract or other matter if the person or the spouse, de facto partner or relative of the person has a pecuniary interest 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; **(LGA - S 452)**
- (2) a question arising on a motion for a resolution to fill the office of mayor, if the reason for which abstention from voting would otherwise be required is that a fee for the following 12 months had been determined for the office; **(LGA - S 452)**
- (3) a question relating to the making 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 only reason for which abstention from voting would otherwise be required is that 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; **(LGA - S 452)**
- (4) a question relating to the making 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 be made, by the Council in respect of similar matters with other residents of the area:
- * the performance by the Council at the expense of the relative of any work or service in connection with roads or sanitation
 - * security for damage to footpaths or roads
 - * any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council; **(LGA - S 452)**
- (5) a question relating to:
- * the making or levying of a rate or charge; or
 - * the fixing or charging of a fee for the supply to a relative of the person by the Council of any commodity or service provided by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part; or
 - * the payment of fees and expenses and the provision of facilities to councillors (including the mayor); **(LGA - S 452)**
- (6) a question relating to the passing for payment of a regular account for wages or salary of an employee who is a relative of the person; **(LGA - S 452)**

- (7) a question relating to the indemnity insurance of councillors or members of Council committees. **(LGA - S 452)**
- (8) a question relating to the appointment of a councillor to a body as the representative or delegate of the council, even though a fee or other recompense is payable to the representative or delegate. **(LGA – S 452(h))**

Note: Section 458 of the Act provides that the Minister may in certain circumstances allow a councillor or a member of a committee of a council who has a pecuniary interest to take part in the consideration or discussion of a matter or vote on a matter.

Disclosures to be recorded

61. A disclosure made at a meeting of the Council or Council committee must be recorded in the minutes of the meeting. **(LGA - S 453)**

Powers of the Council in relation to meetings

62. A councillor or member of a Council committee or member of staff must not, if the Council or committee so resolves, attend a meeting of the Council or committee while it has under consideration a matter in which the councillor or member of staff has an interest required to be disclosed under this Part. **(LGA - S 455)**

PART 7 - PRESS AND PUBLIC

Public notice of meetings

63. (1) The Council must give notice to the press and public of the times, dates and places of its meetings and meetings of those of its committees of which all the members are councillors. **(LGA - S 9 (1))**
- (2) The Council and each such committee must have available for the public at its offices and at each meeting, copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting. **(LGA - S 9 (2))**
- (3) In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the General Manager, is likely to take place when the meeting is closed to the public:
- a) the agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item) and;
 - b) the requirements of Subsection (2) of this clause, with respect to the availability of business papers do not apply to the business papers for that item of business. **(LGA - S 9 (2A))**
- (3) The copies are to be available to the press and public as nearly as possible to the time they are available to councillors. **(LGA - S 9 (3))**
- (4) The copies are to be available free of charge. **(LGA - S 9 (4))**
- (5) The advertisements referred to in this part shall be placed in the Lachlander, Condobolin Argus and the Lake News, on a monthly basis, notifying the public as to the place, dates and times the ordinary meetings of Council are scheduled to meet. **(Reg CI - 5)**

Note: The requirement to advertise the holding of a meeting of the Council or a committee meeting does not apply to extraordinary meetings – **(Reg CI – 5(5))**

Attendance at meetings of the Council

64. (1) (a) Everyone is entitled to attend a meeting of the Council and those of its standing committees where all the members are Councillors. **(LGA - S 10)** The Council will permit television cameras or audio tapes, operated by recognised media, to record proceedings of Open Council and Open Committee meetings.



- (b) The Council must ensure that all meetings of the Council and such committees are open to the public. **(LGA - S 10 (1)(b))**
 - (c) However, a person (whether a councillor or another person) is not entitled to be present at a meeting of the Council or a committee if expelled under Clause 41 of this Code. **(LGA - S 10 (2))**
- (2) (A) The Council, or a committee of the Council of which all the members are Councillors, may close to the public so much of its meeting as comprises;
- (a) the discussion of any of the information listed in sub-clause (2)(B), or;
 - (b) the receipt or discussion of any of the information so listed.
- (B) For the purposes of Clause (2)(A), the matters and information are the following;
- (a) personnel matters concerning particular individuals,
 - (b) the personal hardship of any resident or ratepayers,
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the Council, or
 - (iii) reveal a trade secret,
 - (e) information that would, if disclosed, prejudice the maintenance of law,
 - (f) matters affecting the security of the Council, Councillors, Council staff or Council property,



- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege. **(LGA - S 10A (1) - (2) (g))**
- (C) A Council, or a Committee of the Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public. **(LGA - S 10A(3))**
- (D) Members of the public will be allowed 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. **(LGA - S 10A (4))**
- (E) A meeting is not to remain closed during the discussion of anything referred to in Clause 64(2)(B) of this Code:
 - (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
 - (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayers or a trade secret unless the Council or Committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest. **(LGA - S 10B (1))**
- (F) A meeting is not to be closed during the receipt and consideration of information or advice referred to in Clause 64(2)(B) unless the advice concerns legal matters that:
 - (a) are substantial issues relating to a matter in which the Council or Committee is involved, and
 - (b) are clearly identified in the advice, and
 - (c) are fully discussed in that advice. **(LGA - S 10B(2))**
- (G) If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in Clause 64(2)(B)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in Clause 64(2)(B)). **(LGA - S 10B(3))**

- (H) For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
- (a) a person may misinterpret or misunderstand the discussion, or
 - (b) the discussion of the matter may:
 - (i) cause embarrassment to the Council or Committee concerned, or to Councillors or to employees of the Council, or
 - (ii) cause a loss of confidence in the Council or Committee.
(LGA - S 10B(4))
- (I) In deciding whether part of a meeting is to be closed to the public, the Council or Committee concerned must have regard to any relevant guidelines issued by the Director-General. **(LGA - S 10B(5))**
- (J) Part of a meeting of a Council, or of a Committee of the Council of which all the members are Councillors, may be closed to the public while the Council or Committee considers a matter that has not been identified in the agenda for the meeting as a matter that is likely to be considered when the meeting is closed, but only if:
- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in Clause 64(2)(B), and
 - (b) the Council or Committee, after considering any representations made under Clause 64(2)(D), resolves that further discussion of the matter:
 - (i) should not be deferred (because of the urgency of the matter), and
 - (ii) should take place in a part of the meeting that is closed to the public. **(LGA - S10(C))**
- (K) (1) The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.
- (2) The grounds must specify the following:
- (a) the relevant provision of Clause 64(2)(B),

- (b) the matter that is to be discussed during the closed part of the meeting,
- (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest. **(LGA - S 10(D))**

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. **(LGA - S 11 (1))**
- (2) This Clause does not apply if the correspondence or reports:
- (a) relate to a matter that was received or discussed; or
 - (b) were laid on the table at, or submitted to, the meeting,
- when the meeting was closed to the public. **(LGA - S 11(2))**
- (3) This Clause does not apply if the Council or Committee resolved at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in Clause 64(2), are to be treated as confidential. **(LGA - S 11(3))**

Public Forum

66. (1) In order to allow public participation in the decision making process Council gives the public the opportunity to make comment during a 'Public Forum' session of the Council Meeting. This Public Forum session will be held during each meeting of Council following the adoption of the Mayoral Minute, if any. During this session members of the public may address Council on any issue provided the following policy is complied with;
- i) With the exception of those items detailed in this section members of the public are invited to address Council on any local government issue during the Public Forum session of the Council Meeting;

- ii) Persons interested in addressing Council are to be in the meeting room 15 minutes prior to the commencement of the meeting and must convey to the General Manager, or his representative, their wish to address Council. Presenters shall provide details of their name, address and the particular issue or issues they wish to speak to Council on;
- iii) Preference will be given to those persons wishing to speak on the agenda for that particular meeting;
- iv) Addresses are to be a maximum of five minutes in length, this may be extended by the Chairperson, with the total time allowed for the public forum session being 30 minutes;
- v) Should there be more than one person wishing to address Council on an issue then those persons are to nominate one person to represent the group;
- vi) A councillor may ask a maximum of two questions of any one speaker. Questions to the public must be relevant to the subject and not about councillors or staff;
- vii) If no person has registered their wish to speak at the meeting then the next item on the Agenda is proceeded with;
- viii) Written material submitted during the public forum session is to be tabled only and used for a subsequent report if necessary;
- ix) The chairperson may curtail public participation where the information being presented is considered repetitive or irrelevant and may rule a participant out of order;
- x) No motions or resolutions are to be moved during the open forum time;
- xi) Public Forums are to be publicly advertised in conjunction with the Council Meeting Notice.
- xii) Persons participating in the Public Forum session need to be aware that it is not a 'Question and Answer' session and any questions will be taken on notice and responded to by letter.
- xiii) Speakers are to be aware that their address is in an open public meeting forum and Council provides no legal protection or assumes any responsibility for any comments or statements they make during their address;
- xiv) Council will make a record of the matters raised in the Public Forum session and such record is included in the Minutes of the Ordinary Meeting;
- xv) The Public Forum is not to be used to make presentations on matters that are or proposed to be subject to legal action or matters that are or may be subject to negotiation with Council or relate to staffing matters.

An information sheet is available, see Schedule B.

PART 8 - MISCELLANEOUS

Information relating to proceedings at closed meetings not to be disclosed

67. (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 64(2), a person must not, without the authority of the Council, the Mayor or the General Manager disclose, otherwise than to the Council or to a councillor, information with respect to the discussion at, or the business of, the meeting. **(LGA - S 664 (1A))**
- (2) This Clause does not apply:
- (a) to the report of a committee of the Council after it has been presented to the Council; or **(LGA - S 664 (1B)(a))**
 - (b) to the disclosure of information referred to in subclause (1) by a councillor or employee of the Council in the course of the councillor's or employee's duties.

Inspection of the minutes of the Council or a committee

68. (1) (a) 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. **(Reg - CI 46 (1))**
- (b) A copy of the minutes of the open Ordinary Meetings of the Council shall be made available for display in the Lachlan Shire Library, offices and agencies.
- (2) The General Manager must ensure that the minutes of the Council and any minutes of a committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them. **(Reg - CI 46 (2))**

Note: Section 12 of the Act confers a right to inspect the minutes of a council or committee of a council (restricted in the case of closed parts of meetings).

Access to records

69. Related to access to Records by Councillors – Clause 41 under Regulation, deleted in 1999 Regulation review.

Tape recording of meeting of the Council or a committee prohibited without permission

70. (1) A person may use a tape recorder to record the proceedings of a meeting of the Council or a committee of a Council only with the authority of the Council or committee. **(Reg - CI 47)**
- (2) A person may be expelled from a Council meeting by the Mayor, or from a Council committee meeting by the Chairperson of a Council committee, for having used a tape recorder in contravention of this Clause. **(Reg - CI 47 (2))**

Note: Clause 64(1) permits television cameras or audio tapes to be operated by recognised media).

- (3) If any such person, after being notified of a direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the person presiding, may, by using only such force as is necessary, remove the first - mentioned person from that place and, if necessary, restrain that person from re-entering that place. **(Reg - CI 47 (3))**
- (4) In this Clause, **tape recorder** includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not. **(Reg - CI 47(4))** Clause 64(1) is the only exception to this part.

Certain circumstances do not invalidate Council decisions

71. Proceedings at a meeting of the 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 a committee members; or
 - (c) any defect in the election or appointment of a councillor or a committee member; or
 - (d) a failure of a councillor or a committee member to disclose a pecuniary interest at a Council or a committee meeting; or
 - (e) a failure to comply with this Code. **(LGA - S 374)**

Matters not in the Code

72. Where at a Council meeting, meeting practice matters arise which are in all cases not provided for in this Code resort shall be had to the rules, forms, and usage of the Legislative Assembly of New South Wales in force for the time being, so far as the same are applicable to proceedings of the Council.

Smoking on Council's premises

73. Smoking will not be permitted at any Council meeting or any committee meeting held on Council premises or attended by Council staff. This is in accordance with Council's no smoking policy, and will remain in force despite any change which may occur in that policy in the future.

Mobile Telephones

74. It shall be a requirement Council or Committee members turn their mobile telephones off during meetings unless permission is granted by the Mayor or Chairperson.

Attendance of General Manager at meetings

75. (1) The General Manager is entitled to attend, but not to vote at, a meeting of the Council or a meeting of a Committee of the Council of which all the members are councillors.
- (2) The General Manager is entitled to attend a meeting of any other Committee of the Council and may, if a member of the Committee, exercise a vote.
- (3) However, the General Manager may be excluded from a meeting of the Council or a Committee while the Council or Committee deals with a matter relating to the standard performance of the General Manager or the terms of the employment of the General Manager. **(LGA - S 376)**
- (4) The General Manager (or his substitute) will attend each Council and Committee meeting.

Common Seal

76. (1) The General Manager shall have the custody of the Common Seal, and the same shall be kept in such place as the Council directs. The Common Seal and the press to which the same is attached except when such seal and press are in use, shall be kept locked; or shall be otherwise secured.
- (2) Subject to this Code the Common Seal shall not be attached to any contract document or plan without an express order of the Council. In every case where the seal has been attached to any contract, document,

or plan, such contract, document, or plan shall also be signed by the Mayor (or, in case of the absence or illness of the Mayor, and any Deputy Mayor by 2 members) and countersigned by the General Manager.

- (3) Subject to this Code an impression of the Common Seal shall not be taken by any person without the leave of the Council. Any person who contravenes this provision shall be guilty of an offence.
- (4) The Seal of the Council must not be affixed to a document unless the document relates to the business of the Council, and the Council has resolved (by resolution specifically referring to the document) that the seal be so affixed. **(Reg - Cl 48(4))**
- (5) For the purposes of subclause (4), a document in the nature of a reference or certificate of services for an employee of the Council does not relate to the business of the Council. **(Reg - Cl 48(5))**

Amendment of Code

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



SCHEDULE A

AGENDA

Ordinary Council Meetings

1. Confirmation of Minutes
2. Apologies
3. Mayoral Minutes
4. Public Forum
5. Section 451 Disclosures – disclosures of interest in matters to be considered by Council
6. Reports of Committees
7. Deputations (if any 12.00 noon)
8. Staff Report
9. Notices of Motion or Questions where due notice has been given
10. Orders of the Day
11. Reports from Delegates
12. Correspondence
13. Questions (without notice having been ruled urgent by the Mayor) and Statements by Councillors
14. Committee of the Whole



SCHEDULE B**LACHLAN SHIRE COUNCIL****Public Address to Council
Information Sheet****What is Council's Policy?**

Council's policy provides that any member of the public may address Council on any local government issue at the commencement of meetings. Preference will be given to those persons wishing to speak on the agenda for that particular meeting. Council meetings normally commence at 10.00am on the third Wednesday of each month.

Should there be more than one person wishing to address Council on an issue then those persons are to nominate one person to represent the group. A maximum of 30 minutes has been allocated by Council for this forum and each speaker may speak for a maximum of 5 minutes.

Where should I wait to address Council prior to the meeting?

Members of the public who have nominated to address Council should be seated in the public gallery area 15 minutes prior to the commencement of the meeting. Persons wishing to make such an address should convey to the General Manager, or his representative, their wish to address Council. Presenters shall provide details of their name, address and the particular issue or issues they wish to speak to Council on.

How will I know when to address Council?

Shortly after the commencement of the meeting, the Mayor will call on individuals to address the Council. Persons called should make their way to the front of the Chamber and be seated where directed by the chairman or staff.

When can I commence my address?

The Mayor will acknowledge your presence and seek commencement of the address which should run no longer than 5 minutes.

At this stage you may present any relevant documentation to Council prior to the address and 21 copies should be made available for distribution to councillors and staff.



Should I stand or be seated?

You may stand or remain seated during the address and speak clearly and loudly enough so that all present in the Chamber may hear you. Council will make a record of the matters raised in the Public Forum session and such record is included in the Minutes of the Ordinary Meeting.

All Council meetings are recorded and you should avoid any slanderous or libelous statements during your address. You will not be entitled to any privilege through your address.

What protocol should be observed?

During your address you should maintain accepted protocol and identify elected members as 'Councillor' or in the case of the chairman then 'Mayor'.

Are there any matters that I cannot discuss?

There are certain issues that should not be discussed in the Public Forum. These issues include matters that are, or may be, subject to legal action and matters that are, or may be, subject to negotiation with Council or staffing matters.

Will any questions be asked of me?

At the conclusion of your address, the Mayor will determine if councillors wish to ask any questions of you and you should respond to these through the chairman.

May I ask questions of the Council or staff?

The Public Forum is not designed to be a question and answer session. Questions may be asked of Council or staff however these will **NOT** be responded to in the Public Forum session but will be answered in writing as soon as practical after the meeting.

What should I do at the end of my address?

The Mayor will thank you for your address and you may either return to the public gallery area or leave the chamber if you wish.

When will the matter be considered by Council?

Items on the agenda that are the subject of a public address are usually considered in the early stages of the agenda, but no motions or resolutions will be moved during the Public Forum session.

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