



# Code of Meeting Practice

<b>Policy No:</b>	DFA.002.17
<b>Adopted by Council:</b>	
<b>Review Date:</b>	
<b>Responsible Officer:</b>	Director Finance and Administration
<b>Responsible Director:</b>	Director Finance and Administration
<b>Functional Area:</b>	Finance and Administration

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## PART I – INTRODUCTION

This Code of Meeting Practice applies to all meetings of Council and to all Committee meetings of Council without exception. Any matters arising regarding procedure of meetings are to be determined by this Code of Meeting Practice.

In the absence of a specific matter being contained in this Code the meeting shall abide by the ruling from the Chairperson.

Meeting procedures contribute to good public decision making and increase Councils transparency and accountability to the community. Councillors are accountable to their communities for the decisions that they make, those decisions should be based on sound and adequate information.

The conduct of effective meetings is an indication of good governance. Well run meetings reflect an effective partnership and relationship between the governing body of council and council administration.

The principles upon which the Code is built are based directly upon those that underpin the Code of Conduct. Meetings must be run fairly and the procedures used should improve decision making, not personal or political advantage.

### 1.1 Citation

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

### 1.2 Commencement

This version of the Code was adopted by Council for public exhibition on 21 November 2017.

### 1.3 Objective

This Code is made in accordance with the New South Wales Local Government Act, 1993 (as amended) and the Local Government (General) Regulation, 2005.

The objective of this Code is to provide for the convening and conducting of Ordinary Meetings of the Junee Shire Council and its Committee meetings.

## 1.4 Definitions:

### Chairperson –

- a) in relation to a meeting of the Council – means the person presiding at the meeting as provided by section 369 of the Act; and
- b) in relation to a meeting of a committee of the Council – means the person presiding at the meeting as provided by clause 267 of the Regulation (see 5.16).

**Committee** - in relation to the Council, means a committee appointed or elected by the Council in accordance with clause 260 of the Regulation (see 5.8) or the Council when it has resolved into a committee of the whole.

**Councillor** - includes an elected member of the Council

**The Act** - means the NSW Local Government Act, 1993

**The Code** – is the Junee Shire Council Code of Meeting Practice

**The Regulation** - means the Local Government (General) Regulation 2005

## 1.5 Notes in the text

Notes in the text of this code are explanatory notes only and are provided to assist the understanding of this document.

## PART 2 – CONVENING & ATTENDANCE AT COUNCIL MEETINGS

### 2.1 Frequency and Timing of Council Meetings

(s365 LGA and Local Policy)

1. The Council will meet on the third Tuesday of each month at 4:30pm for the purpose of holding its Ordinary Meetings. As required by s.365 LGA, at least ten Ordinary Meetings will be held each year.
2. Council will determine at the September Council meeting (or earlier if circumstances dictate) the Council Meeting schedule for the next 12 months.
3. Council meetings are held at the Junee Shire Chambers.
4. Meetings of Council may be held on other dates or at other times or at other venues as determined by Council.

### 2.2 Calling of Extraordinary Meeting on request by Councillors

(s366 LGA)

1. If the Mayor receives a request in writing signed by at least two Councillors, the Mayor must call an extraordinary meeting of the Council to be held as soon as practical but in any event within 14 days after receipt of the request.
2. The General Manager may call an Extraordinary meeting in consultation with Mayor to facilitate the urgent business matters.

### 2.3 Agenda and Business Paper

(s367 LGA)

1. The General Manager must send to each Councillor, at least three days before each meeting of the Council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.
2. Notice of less than three days may be given of an extraordinary meeting called in an emergency.
3. 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.
4. Business papers outlining the proceedings of Council will be circulated at least three days prior to the meeting; however, it will be endeavored to do so five days prior.
5. Business papers will be distributed electronically to each Councillors iPad.
6. Supplementary Reports on items on the Business Paper may be distributed at any time between the Business Paper being circulated and the conduct of the meeting.

(Local Policy)

## 2.4 Public Notice of Meetings

(s.9 LGA)

1. Council must give notice to the public of the times and places of its meetings and meetings of those of its committees of which all the members are councillors. (Refer clause 8A)
2. Council and each such committee must have available for the public at its offices and at each meeting copies (for inspection or electronic form) of the agenda and the associated business papers for the meeting.
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) with respect to the availability of business papers do not apply to the business papers for that item of business.
4. The copies are to be available to the public as near as possible to the time they are available to councillors.

## 2.5 Public Notice Requirements

(Clause 232 Regulations)

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

## 2.6 Who is entitled to attend Meetings

(s10 LGA)

1. Except as provided by this Part:
  - a) everyone is entitled to attend a meeting of the Council and those of its committees of which all the members are Councillors, and
  - b) a Council must ensure that all meetings of the Council and of such committees are open to the public.
2. However, a person (whether a Councillor or another person) is not entitled to be present at a meeting of the Council or of such a committee if expelled from the meeting;
  - a) by a resolution of the meeting, or



- b) by the person presiding at the meeting if the Council has, by resolution, authorised the person presiding to exercise the power of expulsion.
3. A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the Regulations

## 2.7 Quorum for a Meeting (s368 LGA)

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

## 2.8 Absence of a Quorum (Clause 233 Regulations)

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.
2. In either case, the meeting must be adjourned to a time, date and place fixed:
  - a) by the Chairperson, or
  - b) in his or her absence – by the majority of the Councillors present; or
  - c) failing that, by the General Manager.
3. The General Manager must record in the Council meeting 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.

## 2.9 Presence at Council Meetings (Clause 235 Regulations)

1. A Councillor cannot participate in a meeting of the Council unless personally present at the meeting.  
*Note: To be present a Councillor must be within the room in which the meeting is being held.*
2. Councillors present at meetings are expected to refrain from leaving the meeting room during the course of the meeting, unless the concurrence of the Chair is obtained or they are absenting themselves because of a conflict of interest.
3. Where any Councillor leaves the meeting while it is in progress the time at which they left, and the time at which they returned is to be recorded in the minutes of the meeting. **(Local Policy)**
4. Should a Councillor know of a pending period of absence due to ill health, business, annual leave or the like, a request for leave of absence stating the period of absence is to be submitted to Council for approval.

5. Wherever possible a Councillor shall submit an apology for non-attendance at any Council or committee meeting.

*Note: The acceptance of an apology is a positive acknowledgement of the courtesy of the person who tendered it. It does not amount to the granting of a leave of absence.*

6. A Councillors position is declared vacant if that Councillor is absent from three (3) consecutive Ordinary Meetings of the Council without prior leave of the Council, (unless that Councillor is absent because he or she has been suspended from office under sections 482 and/or 482A of the Act) (LGA s234(1d))

## PART 3 – PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

### 3.1 Mayor to preside at Council meetings

(s.369 LGA)

1. The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor, presides at meetings of the Council.
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.

### 3.2 Councillor to be elected to preside at certain Meetings

(Clause 236 Regulations)

1. If no Chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a Chairperson to preside at the meeting.

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

2. The election must be conducted:
  - a) by the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election; or
  - b) if neither of them is present at the meeting or there is no General Manager or designated employee, by the person who called the meeting or a person acting on his or her behalf.
3. If, at an election of a chairperson, two or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
4. For the purposes of sub clause (3), the person conducting the election must:
  - a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
  - b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.

5. The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

### **3.3 Chairperson to have precedence**

(Clause 237 Regulations)

When the Chairperson rises during a meeting of the Council;

- a) any Councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat; and
- b) every Councillor present must be silent to enable the Chairperson to be heard without interruption.

### **3.4 Chairperson's duty with respect to Motions**

(Clause 238 Regulations)

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 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.

### **3.5 Order of Business**

(Clause 239 Regulations and Local Policy)

1. For all Ordinary and Extraordinary Meetings of Council, the general order of business will be as follows:
  1. Opening & Welcome
  2. Apologies
  3. Presentations
  4. Confirmation of Minutes
  5. Matters arising out of the Minutes
  6. Declarations of Interest
  7. Mayoral Minute
  8. General Manager's Report
  9. Correspondence
  10. Council Committee Reports
  11. Delegates Reports
  12. Notices of Motion
  13. Late Business (Matters of Urgency)
  14. Questions/Statements with Notice
  15. Information Booklet
  16. Confidential Reports
  17. Meeting Close

2. An Extraordinary meeting shall be held in September of each year prior to the Ordinary Meeting with the following order of business:
  1. Councillor Oath or Affirmation of Office (only after Council Elections)
  2. Mayoral and Councillor Allowances
  3. Method of Election of Mayor and Deputy Mayor
  4. Election of Mayor (every 2 years)
  5. Election of Deputy Mayor
  6. Seating Arrangements
  7. Adoption of Meeting Times
  8. Payment of expenses to Councillors - Travelling
  9. Committees of Council
  10. Election of Council Delegates to external bodies

The order of business fixed under sub clause (1) (other than an extraordinary meeting) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.

3. Despite Clause 250 of the Regulations (refer section 3.22 of this Code), only the mover of a motion referred to in sub clause (3) may speak to the motion before it is put.

### **3.6 Agenda and Business Papers for Council Meetings** (Clause 240 Regulations)

1. The General Manager must ensure that the business paper for a meeting of the Council states:
  - a) all matters to be dealt with arising out of the proceedings of former meetings of the Council; and
  - b) if the Mayor is the Chairperson any matter or topic that the Chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - c) subject to sub clause (2), any business of which due notice has been given.
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.
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 practical before the meeting.

### **3.7 Giving Notice of Business** (Clause 241 Regulations and Local Policy)

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 (Notice of Motion) by 5:00pm eight calendar days prior to the Ordinary meeting date; and
  - b) unless notice of the business has been sent to the Councillors in accordance with Section 367 of the Act.
  - c) Notice of business from Councillors is to be received in a typed or neatly written form utilising the template for a Notice of Motion report set out in the attachments to this Code.

2. Sub clause (1) does not apply to the consideration of business at a meeting if the business:
  - a) is already before, or directly relates to a matter that is already before, the Council, or
  - b) is the election of a Chairperson to preside at the meeting as provided by Clause 236 (1) of the Regulations (refer section 3.2 of this Code), or
  - c) is a matter or topic put to the meeting by the Chairperson in accordance with Clause 243 of the Regulations (refer section 3.15 of this Code), 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 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.

### **3.8 Reports from Council Delegates**

#### **(Local Policy)**

Councillors who attend meetings or other relevant activities as delegates of Council are required to report on these activities at the next Ordinary meeting of Council. Delegates' reports should not contain any recommendations. Any recommendation that the Councillor wishes to place before Council should be presented as a Notice of Motion in accordance with Section 3.10 of this Code.

### **3.9 Motion to be seconded**

#### **(Clause 246 Regulations)**

A motion or an amendment cannot be debated unless or until it has been seconded.

### **3.10 Notices of Motion – Minimum Notice Required**

#### **(Local Policy)**

1. Councillors may initiate business before a Council meeting via a Notice of Motion. (as per attached template)
2. All Notices of Motion by a Councillor, not being the Mayor, are to be included in the Agenda for the relevant Council meeting and are required to be submitted in writing to the General Manager no later than 5:00pm eleven calendar days prior to the Ordinary meeting date of the Council and must include the name and signature of the mover and the name and signature of the seconder.
3. Any Rescission Motions will be listed in the Agenda for Council meetings.
4. If the Mayor wishes, because of urgency, he/she may include the matter in a Mayoral minute which shall be included in the Agenda for the next Council meeting.

5. Senior Staff may provide professional comments and complete the ‘Staff Comments’ section of a Councilor’s Notice of Motion.
6. All Notices of Motion which are rescission motions will be listed on the agenda of the first Council meeting held after their receipt provided that sufficient time has elapsed to allow compliance with Section 372 of the Local Government Act. If sufficient time has not elapsed, the Notice of Motion will be listed in the agenda of the subsequent Council meeting.

### **3.11 Questions on Notice – Minimum Notice Required**

#### **(Local Policy)**

1. Councillors may request information from the General Manager before a Council meeting via Questions on Notice. (as per attached template)
2. All Questions on Notices by a Councillor, not being the Mayor, are to be included in the Agenda for the relevant Council meeting and are required to be submitted in writing to the General Manager no later than 5:00pm eleven calendar days prior to the Ordinary meeting date of the Council.
3. Senior Staff may provide professional comments and complete the ‘Staff Response/Answer’ section of a Councilor’s Questions on Notice form.
4. Depending on the complexity and nature of questions on notice staff may not be able to provide a fully detailed response until the following Council meeting.
5. Councillors are encouraged to seek responses to questions directly from the General Manager or Directors without putting a formal Question on Notice to a Council meeting.

### **3.12 Representations by Members of the Public – closure of part of Meeting**

#### **(Clause 252 Regulations)**

1. A representation at a Council meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.
2. That period is as fixed by the Council’s Code of Meeting Practice or as fixed by resolution of the Council. Different periods can be fixed according to the different types of matters to be discussed at closed parts of meetings.

### **3.13 Meetings, or parts of Meetings, closed to the public**

#### **(Local Policy)**

1. That, at a meeting of Council where it resolves to close a meeting to deal with confidential information, it does so in strict accordance with Sections 10A to 10D of the Act and the Regulations.
2. If confidential information is to be dealt with, then:
  - a) The agenda should include reference to the full report or part of the report or other information, to be dealt with in closed session.
  - b) The agenda should give sufficient information for the public to be aware of the item that is to be discussed in closed session and specifically refer to the relevant provision in Section 10A(2)(a) to (g) of the Act relied on in closing the meeting.

- c) A motion to move to closed session to deal with the item for the specific reason from Section 10A (2) be moved.
- d) The motion when put, if carried, requires the Chairperson to request the press and public to depart the Chamber. If lost, the matter can rest or a motion to deal with the information in open meeting can be moved.

(This debate should be restricted to the motion not the content of the confidential information).

- e) If Council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended. (Clause 253 of the Regulations)

### 3.14 Information relating to closed meetings not to be disclosed

(s.664 LGA)

- 1. If part of a meeting of Council or a Committee of Council is closed to the public in accordance with s.10A (1) of the Act, a person must not, without the authority of the council or the committee, disclose (otherwise than to the council or a councillor of the council) information with respect to the discussion at, or the business of, the meeting. (s664(1A))
- 2. Subsection 1 does not apply to:
  - a) the report of a committee of a council after it has been presented to the council, or
  - b) disclosure made:
    - i. with the consent of the person from whom the information was obtained, or
    - ii. in connection with the administration or execution of LGA 93, or
    - iii. for the purposes of any legal proceedings arising out of LGA 93 or of any report of any such proceedings, or
    - iv. in accordance with a requirement imposed under the Ombudsman Act 1974 or the Government Information (Public Access) Act, 2009, or
    - v. with other lawful excuse,
  - c) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with the Government Information (Public Access) Act, or
  - d) disclosure made in the circumstances prescribed in the regulations. (s.664(1B))

#### The circumstances prescribed in the regulations are:

*For the purposes of s.664 (1B)(c) of the Act, any disclosure made with the intention of enabling the Minister or the Director-General to properly exercise the functions conferred or imposed on them by or under the Act is a prescribed circumstance. (Reg.412)*

***Note:** Councillors should be aware of the prohibitions contained in: s.664(2) LGA - a person acting in the administration or execution of this Act must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known, for the purpose of gaining, either directly or indirectly, a financial advantage for the person, the person's spouse or de facto partner or a relative of the person,*

and in s.664 (3) LGA - a person acting in the administration or execution of this Act, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person, influence:

- a) the determination of an application for an approval, or
- b) the giving of an order.

### **3.15 Agenda for Extraordinary Meetings**

(Clause 242 Regulations)

1. The General Manager must ensure that the agenda for an extraordinary meeting of Council deals only with the matters stated in the notice of the meeting.
2. Despite sub clause (1), business may be transacted at an extraordinary meeting of Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
  - 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.

### **3.16 Official Mayoral Minutes**

(Clause 243 Regulations)

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

### **3.17 Report of a Department of Local Government Representative to be tabled at Council Meeting**

(Clause 244 Regulations)

When a report of an Office of Local Government representative has been presented to a meeting of the 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 at all reasonable times.



### 3.18 Notice of Motion – Absence of Mover

(Clause 245 Regulations)

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

- a) any other Councillor may move the motion at the meeting; or
- b) the Chairperson may defer the motion until the next meeting of the Council at which the motion can be considered.

### 3.19 How subsequent amendments may be moved

(Clause 247 Regulations)

1. If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the Council at any one time.
2. Amendments are changes to the wording and effect of the original motion that has been proposed.
3. After a motion has been seconded, an amendment may be proposed. The following restrictions apply to an amendment:
4. The mover or seconder of the original motion, are not allowed to move or second an amendment, unless the meeting unanimously agrees to enable them to do so.
5. Any other speaker may move an amendment. The amendment does not need the approval of either the mover or seconder of the original motion.
6. An amendment must not substantially change the original motion, and must not be a direct negation of it. An amendment may alter, add or subtract words from the original motion.
7. Debate on the amendment follows the same rules as an original motion. However, it is essential that debate is limited to the amendment, and not the merits of the original motion. The mover of an amendment does not have a general right of reply, unless permitted by the Chairperson.
8. Councillors who have spoken previously to the original motion, or an earlier amendment, are entitled to speak on the new amendment.
9. When debate on the amendment has concluded, the amendment is voted upon. If the amendment is defeated, then debate on the original motion resumes as if the defeated amendment had never been proposed. If the amendment is carried, then debate will continue on the original motion in its amended form
10. If the amendment is carried, the amended motion becomes the motion and may be further amended.
11. Amendments may not be amended.
12. Once an amendment has been voted upon, and debate on the original motion (as amended, if applicable) resumes, further amendments may then (and only then) be considered. Only one amendment can be dealt with at any one time.

13. If no further amendment is proposed, the amended motion as carried takes the place of the original motion and becomes the motion. It is then put to the meeting as a motion, subject to right of reply by the mover of the original motion.
14. The right of reply should be a review of the previous debate only, and no new issues should be raised.
15. One amendment only shall be discussed at a time, but a Councillor may inform the Chair that he or she foreshadows an amendment and may state its form but shall not propose or discuss it until the amendment before the meeting has been dealt with.

**(See also the flowchart listed in the attachments section to this Code)**

### **3.20 Motions of Dissent**

(Clause 248 Regulations)

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 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 business paper and proceed with it in due course.
3. Despite Clause 250 of the Regulations, 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.

### **3.21 Questions may be put to Councillors and Council employees**

(Clause 249 Regulations)

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

### **3.22 Limitation as to number of speeches**

(Clause 250 Regulations)

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 an original motion, has the right to speak once on the motion and once on each amendment to it.
3. A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the Chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment and for longer than 5 minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
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 two Councillors have spoken in favour of the motion or amendment and at least two Councillors have spoken against it.
5. The Chairperson must immediately put to the vote, without debate, a motion moved under sub clause (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 sub clause (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.

### **3.23 Voting entitlements of Councillors** (s370 LGA)

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

### **3.24 Voting at Council Meetings** (Clause 251 Regulations)

1. A Councillor who is present at a meeting of Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
2. If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.
3. The decision of the Chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two Councillors rise and demand a division.
4. When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes.
5. Voting at a Council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However the Council may resolve that the voting in any election by Councillors for Mayor or Deputy Mayor is to be by secret ballot.

### 3.25 Block Voting

(Local Policy)

1. Subject to Clause 2 below, Councillors may, by ordinary resolution, resolve to pass in block any motions before Council.
2. Councillors shall not pass in block any motion relating to Councillor Remuneration or any motion to which a declaration of interest has been lodged.

### 3.26 What Constitutes a Decision of the Council

(s371 LGA)

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.

### 3.27 Rescinding or altering resolutions

(s372 LGA)

1. A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which three days' notice has been duly given.
2. If notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.
3. If a motion has been negatived by the Council, a motion having the same effect must not be considered unless three days' notice has been duly given.
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 three Councillors if less than three 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 three months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.
6. Councillors are required to lodge rescission motions relating to development applications within one working day after the meeting at which a resolution relating to the development application is passed. Failure to do this may result in the Notice of Development Consent being issued prior to Council having the opportunity to consider the rescission motion, given that applicants have a right to expect that the notice of determination will be issued without undue delay (see Note B below).

**Note A.** In general, the General Manager, on becoming aware of a rescission motion, will instruct staff to cease to action the relevant resolution. However, if the General Manager is of the opinion that by doing so Council may incur damages for failing to act on a resolution, then the General Manager may consult with the Mayor and they may both agree on a course of action that is in the best interests of Council. This may include continuing to action the resolution despite the rescission motion. In such circumstances, the General Manager shall prepare a report for the Council meeting at which the rescission motion is to be considered and shall include in that report any relevant legal advice received by Council.

**Note B.** The Courts have held that if Council passes a valid resolution consenting to a development application, once that consent has been formally communicated to the applicant, Council cannot rescind that resolution. Formal communication generally takes the form of a letter from Council to the applicant setting out the terms and conditions of the Consent.

### 3.28 Certain Circumstances do not invalidate Council Decisions

(s374 LGA)

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) a 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.

## PART 4 – KEEPING ORDER AT MEETINGS

### 4.1 Questions of Order

(Clause 255 Regulations)

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.

**Note:** Councillors, staff and members of the public can take action and may seek legal compensation etc. if they are defamed. Councillors acting within their official capacity at meetings of Council are afforded 'qualified privilege'. This recognises the need to speak freely and publicly in carrying out their duties. However qualified privilege is not 'absolute privilege' and needs to be treated with caution. All statements need to be made with good intentions and not malice.

### 4.2 Acts of Disorder

(Clause 256 Regulations)

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

- d) insults or makes personal reflections on or imputes improper motives to any other Councillor; or
  - e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or committee into contempt.
2. The Chairperson may require a Councillor:
- a) to apologise without reservation for an act of disorder referred to in sub clause
  - b) (1) (a) or (b); or
  - c) to withdraw a motion or an amendment referred to in sub clause (1) (c) and, where appropriate, to apologise without reservation; or
  - d) to retract and apologise without reservation for an act or disorder referred to in sub clause (1) (d) or (e).
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 sub clause (2). The expulsion of a Councillor from the meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

### **4.3 How disorder at a meeting may be dealt with** (Clause 257 Regulations)

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

### **4.4 Power to remove persons from a meeting after expulsion** (Clause 258 Regulations)

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.

## PART 5 – COUNCIL COMMITTEES

### 5.1 Committee of Council

(s373 LGA)

The Council may resolve itself into a committee to consider any matter before Council.

### 5.2 Committee of the Whole

(Clause 259 Regulations)

1. All the provisions of this code relating to meetings of Council, so far as they are applicable, extend to and govern the proceedings of the Council when in committee of the whole, except the provision limiting the number and duration of speeches.
2. The General Manager or, in the absence of the General Manager, an employee of the Council designated by the General Manager is responsible for reporting to the Council proceedings in committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
3. The Council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the Council's Minutes. However the Council is not taken to have adopted the report until a motion for adoption has been made and passed.

### 5.3 Council may establish Committees

(Clause 260 Regulations)

1. The Council may, by resolution, establish such committees as it considers necessary.
2. A committee is to consist of the Mayor and such other Councillors as are elected by the Councillors or appointed by the Council.
3. The quorum for a meeting of a committee is to be a majority of the members of the committee.

### 5.4 Functions of Committees

(Clause 261 Regulations)

1. The Council must specify the functions of each of its committees when the committee is appointed or elected, but may from time to time amend those functions.

### 5.5 Notice of Committee meetings to be given

(Clause 262 Regulations)

1. The General Manager of the Council must send to each Councillor, at least three 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.
2. However, notice of less than three days may be given of a committee meeting called in an emergency.

## 5.6 Non-Members entitled to attend Committee Meetings

(Clause 263 Regulations)

1. A Councillor who is not a member of a committee of the Council is entitled to attend and speak at, but is not entitled to vote at, a meeting of the committee.
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.

*Note: All committees are open to the public subject to Section 10(1) of the Act.*

## 5.7 Representations by members of the public – Closure of part of the Meeting

(Clause 264 Regulations)

1. A representation at a committee meeting by a member of the public as to whether a part of a meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.
2. That period is as fixed by the Council's Code of Meeting Practice or (as fixed by resolution of the Council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.

## 5.8 Committees to keep minutes

(Clause 266 Regulations)

1. Each committee of a Council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular, a committee must ensure that the following matters are recorded in the committee's minutes:
  - a) details of each motion moved at a meeting and of any amendments moved to it,
  - b) the names of the mover and seconder of the motion or amendment,
  - c) whether the motion or amendment is passed or lost.
  - d) Committee minutes shall also include minute numbers

## 5.9 Chairperson and Deputy Chairperson of Committees

(Clause 267 Regulations)

1. The Chairperson of each committee of the Council must be:
  - a) the Mayor, or
  - b) if the Mayor does not wish to be the Chairperson of a committee, a member of the committee elected by the Council; or



- c) if the Council does not elect such a member, a member of the committee elected by the committee.
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.
3. If neither the Chairperson nor the Deputy Chairperson of a committee of the Council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting Chairperson of the committee.
4. The Chairperson is to preside at a meeting of a committee of the Council. If the Chairperson is unable or unwilling to preside, the Deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the Deputy Chairperson is able or willing to preside, the acting Chairperson is to preside at the meeting.
5. The Mayor is, (by virtue of holding that office, ex-officio) a member of each committee of the Council.

### 5.10 Absence from Committee Meetings

(Clause 268 Regulations)

1. A member ceases to be a member of a committee if the member (other than the Mayor):
  - a) has been absent from three 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.
2. Sub clause (1) does not apply if all the members of the Council are members of the committee.

**Note:** The expression "year" means the period beginning 1 July and ending the following 30 June.

### 5.11 Reports of Committees

(Clause 269 Regulations)

1. If in a report of a committee of the Council distinct recommendations are made, the decision of the Council can be made separately on each recommendation.
2. The recommendations of a committee of the Council are, so far as adopted by the Council, resolutions of the Council.
3. If a committee of a Council passes a resolution, or makes 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 practical after the meeting or part of the meeting has ended, and
  - b) report the resolution or recommendation to the next meeting of the Council.

**Note:** Recommendations of a Committee are not resolutions of Council unless resolved and adopted by Council at an Ordinary Council Meeting.

## 5.12 Disorder in Committee Meetings

(Clause 270 Regulations)

The provision of the Act and of this Regulation 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.

## 5.13 Certain persons may be expelled from Council Committee meetings

(Clause 271 Regulations)

1. If a meeting or part of a meeting of a committee of the Council is closed to the public in accordance with Section 10A of the Act, any person who is not a Councillor may be expelled from the meeting as provided by Section 10(2) (a) or (b) of the Act.
2. If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council, committee or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.

## PART 6 – MISCELLANEOUS

### 6.1 Disclosure and Participation in Meetings

(Sections 451, 453, 454, 456, 457, 458 and Local Policy)

Dealing with declarations of interests are specified in the Junee Shire Council Code of Conduct

### 6.2 Minutes

(s375 LGA)

1. The Council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council.
2. 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.

**Note:** There is no requirement for each page of the minutes to be signed by the Chairperson (usually the Mayor) at the meeting. The Chairperson can confirm the minutes on the final page.

### 6.3 Matters to be included in Minutes of Council Meetings

(Clause 254 Regulations)

3. 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.

## 6.4 Inspection of the Minutes of Council or Committee meeting

(Clause 272 Regulations)

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

**Note:** *The Government Information (Public Access) Act confers a right (restricted in the case of closed parts of meetings) to inspect the minutes of a Council or committee of a Council.*

## 6.5 Formal censure of Councillor for misbehaviour

(s440G LGA)

6. Council may by resolution at a meeting formally censure a Councillor for misbehavior.
7. A formal censure resolution may not be passed except by a motion to that effect of which notice has been duly given in accordance with regulations made under s.360
8. Council may pass a formal censure resolution only if it is satisfied that the Councillor has misbehaved on one or more occasions.
9. Council must specify in the formal censure resolution the grounds on which it is satisfied that the Councillor should be censured.
10. A motion for a formal censure resolution may, without limitation, be moved on the report of a committee of Council and any such report must be recorded in the minutes of the meeting of Council.

*Misbehaviour of a Councillor is defined as follows:*

- a) a contravention by the Councillor of the Local Government Act or the regulations,
- b) a failure by the Councillor to comply with an applicable requirement of a code of conduct as required under s.440(5) LGA,
- c) an act of disorder by the Councillor at a Council meeting or a Council committee meeting (for an exhaustive list of acts of disorder see clause 4.2(1)), but does not include a contravention of the disclosure requirements of Part 2 LGA

## 6.6 Attendance of General Manager at meetings

(s376 LGA)

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 of performance of the General Manager or the terms of the employment of the General Manager.

## **6.7 Tape recording of Meeting of Council or Committee by the Press or Public**

(Clause 273 Regulations, Local Policy)

1. A person may use a tape recorder to record the proceedings of a meeting of Council or a Committee of Council only with the authority of Council or the Committee. Junee Shire Council does not authorise the recording by parties other than Council, in any form, of Council or Committee Meetings.
2. A person may, as provided by clause 12(2)(a) or (b)(s.10(2)(a) or (b) LGA), be expelled from a meeting of the Council or a Committee of Council for using or having used a tape recorder in contravention of this clause.
3. If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a Police Officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the first mentioned person from that place and, if necessary, restrain that person from re-entering that place.
4. In this Clause, tape recorder includes a video camera and/or any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

## **6.8 Community Consultation – (Public Access)**

(Local Policy)

The General Manager may permit any member of the public to address Council Meetings as Community Consultation on any matter, listed on the agenda before Council, except matters associated with the procurement of goods and services, subject to the following conditions:

- a) That the duration of a public address be limited to five minutes unless varied by resolution of the Council.
- b) Members of the public wishing to address the Council as a deputation must have a bona fide interest in the matter as an affected person or be the representative of an affected person. They are to advise the General Manager prior the close of business on the Monday before the meeting that they wish to address the meeting and advise:
  - i. the item in the business paper that they wish to address,
  - ii. the interest they have in the matter, and
  - iii. undertake to provide a written summary of the issues to be spoken to one clear business day before the Council Meeting.
- c) Members of the public who have a bona fide interest in a matter but are unable to personally address a meeting may request that a spokesperson appear on their behalf.
- d) Speakers wishing to speak on behalf of a third party must satisfy the Council Meeting that he or she has the authority to represent or speak on behalf of the third party.

- e) If a party is to be represented by a lawyer, the party be advised that, during the deputation, the lawyer must not address Council on, or raise any legal issues or opinions or provide any legal advice. Should they attempt to do so, Council will terminate the deputation.
- f) Speakers either for or against a proposal be limited to the first meeting at which the matter is presented for consideration.
- g) In relation to each matter, only one deputation shall be permitted unless there are separate groups wishing to address Council in relation to the same matter, in which event the General Manager may permit a maximum of two deputations for and two deputations against the matter before Council.
- h) The order of speakers be strictly in order of request and be the nominated speaker only.
- i) Speakers at meetings of Council do not have absolute privilege. A speaker who makes any potentially offensive or defamatory remarks about another person may be liable for legal action.
- j) Members of the public will not be permitted to use Community Consultation to abuse, vilify, insult, threaten, intimidate or harass Councillors, staff or other members of the public. Conduct of this nature will be deemed to be an act of disorder and the person engaging in such behavior will be ruled out of order and may be expelled.
- k) Any Councillor may ask a question to seek amplification from a speaker of issues raised during the presentation.
- l) Speakers are not to directly ask or post questions to Councillors or staff.

## **6.9 Mobile Phones**

**(Local Policy)**

Any Councillor, Council employee or member of the public attending a Council meeting with a mobile phone must ensure that the device is switched off or silenced at all times during the meeting.

## **6.10 Councillor Workshops**

**(Local Policy)**

1. Workshops for Councillors may be held as an informal discussion when complex and time consuming discussion is required. Workshops are for information gathering and provision and are not decision making sessions. A workshop is a means to enable Councillors to bring an informed mind to the appropriate decision making forum at a later point.
2. The meeting procedures in this Code do not apply to workshops and accordingly no recommendations are made or minutes taken.
3. Notification of workshops is to be advised to all Councillors and any documentation provided at the workshop will also be provided to any Councillors who were unable to attend.

## 6.11 Petitions

### (Local Policy)

1. All petitions received by Council shall be presented to a Council meeting.
2. If a report on the subject matter of the petition is already in the Business Paper then the petition shall be merely tabled at that meeting.
3. If no report has been prepared at the time the petition is received the petition will be tabled at the next meeting.
4. To avoid breaches of the privacy legislation, petitions shall not be included in the attachments to the Business Paper but only be tabled at Council meetings.
5. The petition shall be reported in the minutes of the meeting at which it is tabled in the following manner:
6. 'A petition on (insert the wording from the beginning of the petition) was tabled at the meeting. It indicates signing by XX petitioners.'
7. Copies of the petition shall not be circulated with the minutes of the meeting.
8. Copies of petitions shall not be circulated to the public gallery.

## 6.12 Oath or Affirmation of Office - Councillors

### (s233A LGA)

1. A councillor must take an oath of office or make an affirmation of office at or before the first meeting of the council after the councillor is elected.
2. The oath or affirmation may be taken or made before the general manager of the council, an Australian legal practitioner or a justice of the peace and is to be in the form outlined in Attachment I of this Code and s233A of the Act.
3. A councillor who fails, without a reasonable excuse, to take the oath of office or make an affirmation of office in accordance with this section is not entitled to attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected to the office or a meeting at which the councillor takes the oath or makes the affirmation) until the councillor has taken the oath or made the affirmation.
4. Any absence of a councillor from an ordinary meeting of the council that the councillor is not entitled to attend because of this section is taken to be an absence without prior leave of the council.
5. Failure to take an oath of office or make an affirmation of office does not affect the validity of anything done by a councillor in the exercise of the councillor's functions.
6. The general manager must ensure that a record is to be kept of the taking of an oath or the making of an affirmation (whether in the minutes of the council meeting or otherwise).

## 6.13 Disclosure by Adviser

1. Disclosure - A person who, at the request or with the consent of the Council or a Council Committee, gives advice on any matter at any meeting of the Council or Committee must disclose any pecuniary interest the person has in the matter to the meeting at the time the advice is given.

2. Interest as adviser - The person is not required to disclose the person's interest as an adviser. (LGA Section 456)

*Note: Contains extracts from Chapter 14 of the LGA which relate to the conduct of meetings. The Clause is not however a complete commentary of Councillor and staff obligations under the LGA.*

## **6.14 Council Seal**

1. The seal of a Council must be kept by the Mayor or the General Manager, as the Council determines.
2. A Council seal can be affixed to a document only after the Council has resolved that the seal be affixed. The resolution must specifically refer to the document and the document must relate to Council business.
3. The power to authorise the affixing of the seal can only be exercised by the Council. It cannot be delegated to a Committee or employee.
4. If Council wishes to provide references or certificates of service to employees or congratulatory letters to members of the community, it can do so by using its letterhead paper or enhanced formats for these purposes. The Council seal can no longer be used for these documents.
5. The seal of a Council may be affixed to a document only in the presence of:
  - a) the Mayor and the General Manager; or
  - b) at least one Councillor (other than the Mayor) and the General Manager; or
  - c) the Mayor and at least one other Councillor; or
  - d) at least two Councillors other than the Mayor.
6. The affixing of a Council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause 20.2) attest by their signatures that the seal was affixed in their presence.

## **6.15 Dress Code**

Councillors and staff shall dress appropriately for any Council meeting or function.

## **6.16 Language Code**

Councillors using offensive language during any Council meeting or function shall be dealt with in accordance with Clause 4 of this Code.

## Attachment I- Oath and Affirmation

### Oath of Office

*I (name of Councillor) swear that I will undertake the duties of the office of Councillor in the best interests of the people of the Junee Shire area and the Junee Shire Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgement.*

### Affirmation of Office

*I (name of Councillor) solemnly and sincerely declare and affirm that I will undertake the duties of the office of Councillor in the best interests of the people of the Junee Shire area and the Junee Shire Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgement.*

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## Attachment 2 – Reasons for Closing Parts of Meetings

### Reasons for Closing Parts of Meetings

#### Section 10A - Which parts of a meeting can be closed to the public?

- a) Council, or a Committee of Council of which all the members are Councillors, may close to the public so much of its meeting as comprise:
  - i. the discussion of any of the matters listed in sub clause (2), or
  - ii. the receipt or discussion of any of the information so listed.
- b) The matters and information are the following:
  - i. personnel matters concerning particular individuals,
  - ii. the personal hardship of any resident or ratepayer,
  - iii. information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business,
  - iv. commercial information of a confidential nature that would, if disclosed:
  - v. prejudice the commercial position of the person who supplied it,
  - vi. confer a commercial advantage on a competitor of Council, or
  - vii. reveal a trade secret,
  - viii. information that would, if disclosed, prejudice the maintenance of law,
  - ix. matters affecting the security of Council, Councillors, Council staff or Council property,
  - x. advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- c) Council, or a Committee of Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.
- d) Council, or a committee of Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

**Section 10B - Further limitations relating to closure of parts of meetings to the public**

- a) A meeting is not to remain closed during the discussion of anything referred to in clause 13(2):
  - i. except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
  - ii. if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret unless the Council or Committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.
- b) A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 13(2)(g) unless the advice concerns legal matters that:
  - i. are substantial issues relating to a matter in which the Council or Committee is involved, and
  - ii. are clearly identified in the advice, and
  - iii. are fully discussed in that advice.
- c) 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 13(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in clause 13(2)).
- d) 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:
  - i. a person may misinterpret or misunderstand the discussion, or
  - ii. the discussion of the matter may:
    - *cause embarrassment to the Council or Committee concerned, or to Councillors or to employees of Council, or*
    - *cause a loss of confidence in the Council or Committee.*
- e) 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.

**Section 10C - Notice of likelihood of closure not required in urgent cases**

Part of a meeting of Council, or of a Committee of 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 13(2), and
- b) the Council or Committee, after considering any representations made under clause 13(4), 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.

**Section 10D - Grounds for closing part of meeting to be specified**

- a) 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.
- b) The grounds must specify the following:
  - i. the relevant provision of section 10A(2),
  - ii. the matter that is to be discussed during the closed part of the meeting,
  - iii. 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.

**Section 11 - Public access to correspondence and reports**

- a) Council and any Committee of which all 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.
- b) This section does not apply if the correspondence or reports:
  - i. relate to a matter that was received or discussed; or
  - ii. were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.
- c) This section does not apply if Council or the Committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in clause 13(2), are to be treated as confidential.

Attachment 3 – Declaration of Interest

# DECLARATION OF INTEREST

Agenda Item No: \_\_\_\_\_

Report Title: \_\_\_\_\_

**Councillor**..... declared a

<b>Pecuniary Interest</b>	<input type="checkbox"/>
<b>Non Pecuniary Significant</b>	<input type="checkbox"/>
<b>Less than Significant Non Pecuniary</b>	<input type="checkbox"/>

In this item, the nature of the interest is \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If a Councillor declares a less than significant conflict of interest and intends to remain in the meeting, the Councillor needs to provide an explanation as to why the conflict requires no further action to manage the conflict (attach a separate sheet if required)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Councillor** \_\_\_\_\_ left the Chambers and thereby did not take part in the discussion or voting on the item.

Time Councillor left the Chamber: \_\_\_\_\_

**Councillor** \_\_\_\_\_ returned to the Chamber and resumed their usual place at the meeting.

Time Councillor returned to the Chamber: \_\_\_\_\_

## **Declaration of Conflict of Interest – Definitions**

### **Part 4 of the Code of Conduct refers.**

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

### **What is a pecuniary interest?**

- 1.5 A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (section 442)
- 1.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (section 443)
- 1.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
  - a) councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (section 449)
  - b) councillors and members of council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (section 451)
  - c) designated persons immediately declare, in writing, any pecuniary interest. (section 459)
- 1.8 Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.
- 1.9 Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

### **What are non-pecuniary interests?**

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

**Managing non-pecuniary conflict of interests**

- 1.12 Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.
- 1.13 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 1.12.
- 1.14 How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.

**What is non-pecuniary – significant?**

- 1.15 As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:
  - a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household.
  - b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
  - c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.
- 1.16 If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:
  - a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official.
  - b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply.

**What is non-pecuniary – less than significant?**

- 1.17 If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 1.18 If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- 1.19 Despite clause 1.16(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff through the general manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 1.16(b) above.

Attachment 4 – Notice of Motion

# NOTICE OF MOTION

**Motion**

***Moved***

.....  
Councillor

.....  
Signature

***Seconded***

.....  
Councillor

.....  
Signature

**Staff Comment:**

Date and Time Received

...../...../.....

.....AM/PM

Attachment 5 – Questions on Notice

### QUESTIONS ON NOTICE

COUNCILLOR .....

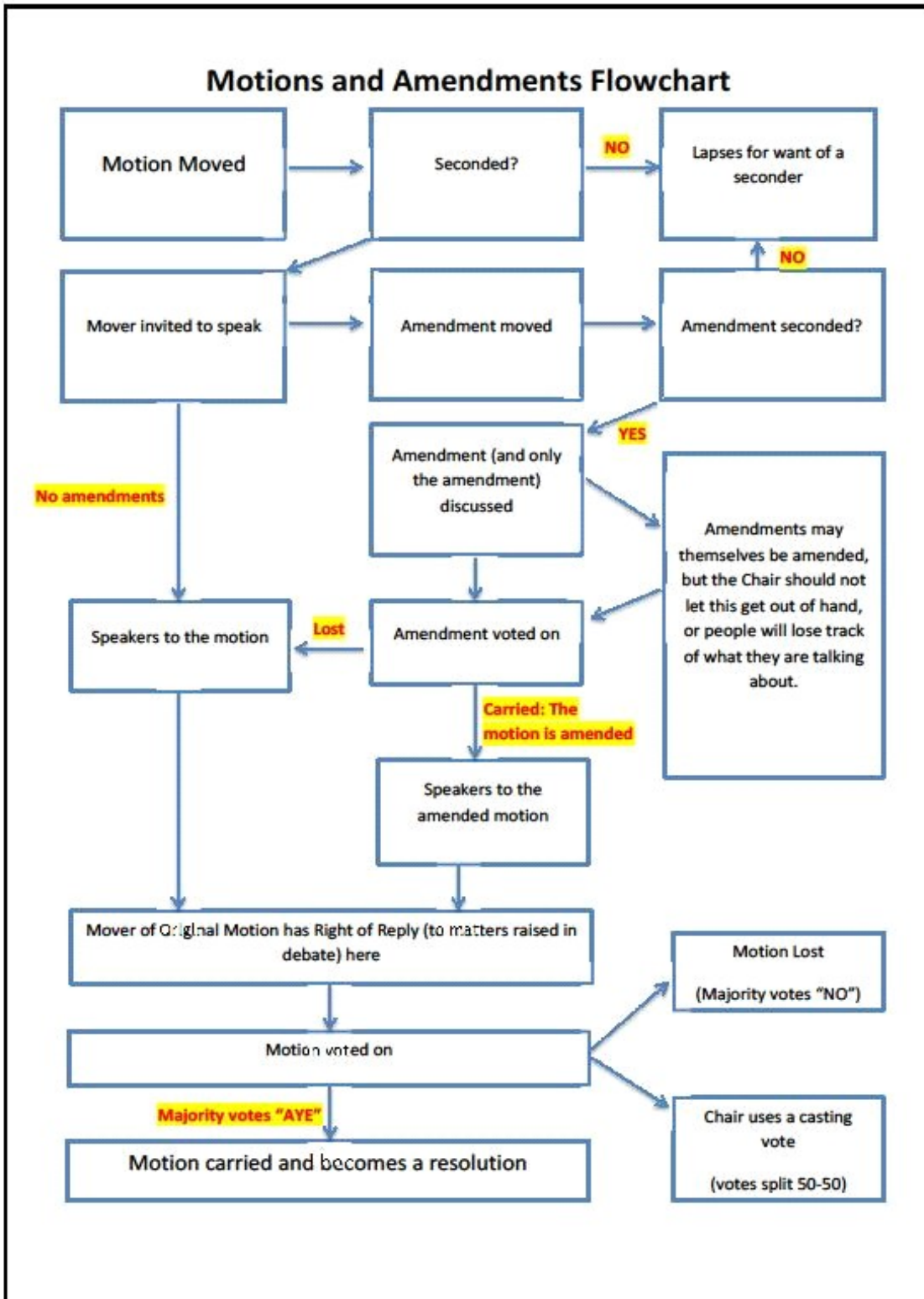
Refer to Council's Meeting of .....

Question	Staff Response/Answer

Date and Time Received                    ...../...../.....                    .....AM/PM



Attachment 6 – Flowchart of Motions



## Version Control and Change History

Version	Date	Modified By	Action
VI.1	21/11/2017	Council	Adoption of Code