

Policy

Code of Meeting Practice

September 2019

Table of Contents

Part A Preliminary	1
1 Introduction	1
2 Objectives	1
3 Scope	1
4 Principles.....	1
Part B Meetings	2
5 Scheduling of Meetings	2
6 Extraordinary Council Meetings	2
7 Meeting duration and unresolved business.....	2
8 Councillor participation	2
9 Quorum	3
10 Apology and Leave of absence	3
11 Order of business	4
12 Decisions.....	4
13 Circumstances that do not invalidate decisions	5
14 Resolving into a Committee of the whole.....	5
Part C Addressing the Meeting	6
15 Mode of address.....	6
16 Questions	6
17 Public Voice and Public Briefings	6
Part D Notices, Agendas and Business Papers	8
18 Notice to Councillors of Meetings	8
19 Notice to the public of Meetings.....	8
20 Agenda and Business Papers	8
21 Availability of Agenda and Business Papers to the public.....	9
22 Late items of business.....	9
23 Report on investigation.....	10
24 Petitions	10
25 Lord Mayoral actions	10
Part E Chairperson	11
26 Chairperson of Meetings	11
27 Election of Chairperson	11
28 Precedence of Chairperson	11
Part F Meeting Attendance	12
29 Public	12
30 Councillors, CEO and CN staff	12
31 Exclusion of the CEO or CN staff.....	12
Part G Closing Meetings	13
32 Bases for closing Meetings.....	13
33 Motion to close a Meeting.....	14
34 Public representations	14
35 Matters not identified as confidential.....	15
36 Access to Business Papers relating to closed Meetings	15
37 Resolutions passed at closed Meetings.....	15
Part H Minutes	16
38 Recording Minutes	16
39 Confirmation of Minutes.....	16
40 Signature.....	16
41 Correction of errors	16

Part I – Recording, webcasting and photography	17
42 Use of mobile phones and recording of Meetings	17
43 Webcasting	17
44 Photography	18
Part J Motions	19
45 Chairperson’s duty with respect to motions	19
46 Lord Mayoral Minute.....	19
47 Notices of motion.....	19
48 Unacceptable motions	20
49 Repeat motions	20
50 Motions to be seconded	21
51 Motions put without debate or discussion	21
52 Limitations of speeches	21
53 Time for speeches.....	21
54 Absence of mover of notice of motion.....	22
55 Amendments	22
56 Foreshadowed Motions	22
Part K Procedural Motions	24
57 General	24
58 Motion to recommit a matter	24
59 Motion to alter order of business	24
60 Motion that a motion be now put.....	24
61 Motion of dissent	24
62 Motion to adjourn a matter.....	25
63 Motion to adjourn a Meeting	25
64 Motion to refer the matter	25
65 Motion that the matter be left on the table.....	25
66 Motion that a motion be voted on in seriatim	25
Part L Rescission.....	26
67 Rescinding or altering resolutions.....	26
Part M Voting.....	27
68 Voting entitlements.....	27
69 Casting vote	27
70 Counting of votes	27
71 Voting by division	27
72 Recording of voting	27
73 Recording of voting on Planning Decisions.....	27
Part N Disclosure Obligations.....	29
74 Conflicts of interest – Councillors.....	29
75 No knowledge.....	29
76 Allegations of breaches of the Code of Conduct.....	29
Part O Order	30
77 Point of order.....	30
78 Question of order.....	30
79 Act of disorder	30
80 Expulsion from a Meeting	31
81 Removal of persons after expulsion.....	31
Part P Committees of the Council.....	32
82 Establishment.....	32
83 Membership	32
84 Attendance	32
85 Quorum	32
86 Voting.....	32

87	Recommendations	32
Part Q Advisory Committees.....		34
88	Council May Establish Advisory Committees.....	34
89	Recommendations of Advisory Committees	34
Part R Briefings and Workshops		35
90	Briefings	35
91	Workshops	35
Appendix A - Definitions.....		36
Document Control.....		38

Part A Preliminary

1 Introduction

- 1.1 The Code of Meeting Practice (**Code**) is made under section 360 of the Local Government Act 1993 (**Act**), the Local Government (General) Regulation 2005 (**Regulation**) and incorporates the mandatory provisions of the prescribed Model Code of Meeting Practice for Local Councils in NSW (**Model Meeting Code**).
- 1.2 The Code must be interpreted in a manner that is consistent with the Act, the Regulation and the Model Meeting Code. In the event of any inconsistency, the Act, Regulation, or Model Meeting Code (as the case may be) prevails to the extent of the inconsistency.
- 1.3 If a specific matter is not addressed in the Act, the Regulation, the Model Meeting Code, or the Code, the matter must be administered in accordance with a ruling from the Chairperson having regard to advice provided by the Department of Planning, Industry and Environment and/or relevant City of Newcastle (**CN**) staff.
- 1.4 Meetings should address matters of policy, strategic direction, resource allocation, statutory decisions and other appropriate Council issues. Meetings should not address the day to day management of CN, which is the responsibility of the Chief Executive Officer (CEO) under the Act.

2 Objectives

- 2.1 The object of the Code is to provide for the convening and conduct of Meetings.

3 Scope

- 3.1 The Code applies to Council Meetings, Extraordinary Council Meetings and Committee of Council Meetings.

4 Principles

- 4.1 City of Newcastle (CN) commits itself to the following:
 - 4.1.1 **Transparent** – Decisions are made in a way that is open and accountable.
 - 4.1.2 **Informed** – Decisions are made based on relevant, quality information.
 - 4.1.3 **Inclusive** – Decisions respect the diverse needs and interests of the local community.
 - 4.1.4 **Principled** – Decisions are informed by the principles prescribed under Chapter 3 of the Act.
 - 4.1.5 **Trusted** – The community has confidence that Councillors and CN staff act ethically and make decisions in the interests of the whole community.
 - 4.1.6 **Respectful** – Councillors, CN staff and meeting attendees treat each other with respect. Councillors and CN staff are obliged to conduct themselves in accordance with the Code of Conduct.
 - 4.1.7 **Effective** – Meetings are well organised, effectively run and skillfully chaired.
 - 4.1.8 **Orderly** – Councillors, CN staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

Part B Meetings

5 Scheduling of Meetings

- 5.1 Council must meet on at least 10 occasions each calendar year with each Council Meeting being held in a different month. Council may schedule additional Council Meetings, known as Extraordinary Council Meetings.
- 5.2 Council must by resolution adopt a Meeting cycle by the first Council Meeting of each calendar year. The resolution must set out the frequency, time, date and place of Meetings. The Meeting schedule is flexible and Council may amend its adopted Meeting cycle by resolution.

6 Extraordinary Council Meetings

- 6.1 Extraordinary Council Meetings may be held in 'extraordinary' circumstances and can deal with special business or where there is so much business to be dealt with that an additional Meeting is required.
- 6.2 Extraordinary Council Meetings may be held on a scheduled Ordinary Meeting or Committee of Council Meeting night and may be called by:
 - 6.2.1 the Lord Mayor; or
 - 6.2.2 CEO; or
 - 6.2.3 the Lord Mayor if the Lord Mayor receives a request in writing signed by at least two Councillors, which includes the reason for the request.
- 6.3 If the Lord Mayor receives a request to call an Extraordinary Council Meeting in accordance with clause 6.2.3, the Lord Mayor must call the Meeting as soon as practical and no later than 14 days after receiving the request.
- 6.4 The CEO must give each Councillor notice of an Extraordinary Council Meeting in accordance with section 18. The notice must contain the reason for calling the Extraordinary Council Meeting.
- 6.5 Extraordinary Council Meetings may only deal with:
 - 6.5.1 matters stated in the notice of the Extraordinary Council Meeting;
 - 6.5.2 Lord Mayoral Minutes if notice of the Lord Mayoral Minute is included in the notice of the Extraordinary Council Meeting; and
 - 6.5.3 late items of business as provided in section 22.

7 Meeting duration and unresolved business

- 7.1 Meetings are to conclude no later than 9.30pm except where a Meeting resolves to extend the duration of the Meeting.
- 7.2 Any item of business not resolved at the close of the Meeting must be listed as an item of business at the next Meeting of the same type unless the Meeting resolves to adjourn the item of business to another day.

8 Councillor participation

- 8.1 Councillors can only participate in a Meeting if the Councillor is personally present in the Meeting room. A Councillor is present in the Meeting room if that Councillor is in the Meeting room or otherwise in sight of the Meeting (whether or not the Councillor is at the Councillors' table).
- 8.2 When participating in a Meeting, Councillors must:
 - 8.2.1 seek the leave of the Chairperson before exiting the Meeting room and indicate to the Chairperson if their absence will be temporary or if they are retiring early from the Meeting;

- 8.2.2 apologise to the Chairperson if they arrive late; and
 - 8.2.3 sit at the Councillors' table and not move around the Meeting room or sit in the gallery.
- 8.3 Every person present must remain silent while a Councillor is speaking to enable Councillors to be heard without interruption, unless otherwise permitted under this Code.

9 Quorum

- 9.1 The quorum of a Meeting is the majority of Councillors who hold office at the time of the Meeting. Councillors who are suspended from office are not counted for the purpose of quorum.
- 9.2 Clause 9.1 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a Performance Improvement Order issued in respect of Council.
- 9.3 A Meeting must be adjourned if there is no quorum:
- 9.3.1 at the commencement of the Meeting where the number of apologies received indicates that there will not be a quorum for the Meeting,
 - 9.3.2 within 30 minutes of the designated starting time of the Meeting;
 - 9.3.3 at any time during the Meeting; or
 - 9.3.4 because Councillors leave the Meeting room due to conflicts of interest.
- 9.4 If a Meeting is adjourned because there is no quorum:
- 9.4.1 the Chairperson (or in the absence of the Chairperson, the majority of Councillors present or the CEO) must adjourn the Meeting by fixing a time, date and place for the adjourned Meeting to take place; the CEO must ensure the minutes of the Meeting record the circumstances relating to the absence of a quorum and the names of the Councillors present; and
 - 9.4.2 the public will be notified of the adjourned Meeting (at minimum on CN's website).
- 9.5 A Meeting without quorum can be opened but resolutions cannot be passed at a Meeting without quorum.
- 9.6 Where, prior to the commencement of a Meeting, it becomes apparent that a quorum may not be present at the Meeting, or that the safety and welfare of Councillors, CN staff and members of the public may be put at risk by attending the Meeting because of a natural disaster (such as, but not limited to flood or bushfire), the Lord Mayor may, in consultation with the CEO and, as far as is practicable, with each Councillor, cancel the Meeting. Where a Meeting is cancelled, notice of the cancellation must be published on CN's website and using such other means as will bring notice of the cancellation to the attention of as many people as possible.

10 Apology and Leave of absence

- 10.1 All Councillors must make reasonable efforts to attend Meetings of which they are members.
- 10.2 A Councillor may make an apology if they are unable to attend a Meeting. An apology does not constitute a leave of absence.
- 10.3 A Councillor may request a leave of absence from a Meeting. If possible, the Councillor should indicate the date of the Meeting from which the Councillor intends to be absent and the grounds upon which the leave of absence is being sought.

- 10.4 A Meeting must reasonably consider granting a request and may resolve to grant a Councillor a leave of absence from a Meeting. A motion to grant a Councillor a leave of absence is a Procedural Motion.
- 10.5 If a Councillor intends to attend a Meeting despite having been granted a leave of absence, the Councillor should (if practical) give the Lord Mayor/Chairperson and CEO at least two days' notice.
- 10.6 A Councillor's civic office will become vacant if the Councillor is absent from three consecutive Ordinary Council Meetings without prior leave of the Council, or a leave of absence granted by the Council at any of the Meetings concerned, unless the Councillor is absent because they have been suspended from office under the Act, or because the Council has been suspended under the Act, or as a consequence of a compliance order under section 438HA of the Act.

11 Order of business

- 11.1 The general order of business of Council Meetings and Committee Meetings should be:
 - 11.1.1 Opening of the Meeting
 - 11.1.2 Acknowledgement of Country (Chairperson and all present to stand)
 - 11.1.3 Prayer (Chairperson and all present to stand)
 - 11.1.4 Apologies / Leaves of Absence
 - 11.1.5 Confirmation of minutes of previous Meeting
 - 11.1.6 Disclosures of interests
 - 11.1.7 Lord Mayoral Minutes (Council Meeting only)
 - 11.1.8 Reports from Committees of Council (Council Meeting only)
 - 11.1.9 Reports from Advisory Committees
 - 11.1.10 Reports from CN staff
 - 11.1.11 Councillor Reports
 - 11.1.12 Notices of Motion / Questions with Notice
 - 11.1.13 Petitions
 - 11.1.14 Confidential matters (public excluded)
 - 11.1.15 Close of business
- 11.2 A motion to bring a late item of business in accordance with section 22 may only be considered as the last item on the Agenda, immediately prior to the close of business.
- 11.3 The order of business at a Meeting may be altered by resolution. A motion to alter the order of business is a Procedural Motion to which only the mover can speak.
- 11.4 The Chairperson may examine the Agenda with Councillors at any time during the Meeting and deal with items of business that Councillors do not wish to debate in accordance with section 51.

12 Decisions

- 12.1 A decision on an item of business is made by way of Councillors voting on a motion which has been appropriately moved and seconded as required, A motion is successful if it is supported by a majority of votes at the Meeting.
- 12.2 Notwithstanding clause 12.1, a decision in relation to the election of Chairperson must follow the procedures set out in section 27.
- 12.3 A recommendation made in a CN staff report is, so far as it is adopted by the Meeting, a resolution of a Meeting.

- 12.4 A recommendation of a Committee of Council is, so far as it is adopted by a Council Meeting, a resolution of Council.
- 12.5 All decisions will be accurately recorded in the minutes of a Meeting at which the decision is made.
- 12.6 The CEO is to implement without undue delay the lawful decision of a Meeting.

13 Circumstances that do not invalidate decisions

- 13.1 Proceedings at a Meeting are not invalidated because of:
 - 13.1.1 a vacancy in a civic office;
 - 13.1.2 failure to give notice of the Meeting to any Councillor;
 - 13.1.3 any defect in the election or appointment of a Councillor;
 - 13.1.4 failure of a Councillor to disclose or properly manage a conflict of interest;
or
 - 13.1.5 failure to comply with the Code.

14 Resolving into a Committee of the whole

- 14.1 Council may resolve itself into a Committee of the whole at any time during a Meeting.
- 14.2 No decisions may be made while the Council is sitting as a Committee of the whole except where there is an Instrument of Delegation in place.
- 14.3 A summary of proceedings and any recommendations of a Committee of the whole must be reported by the CEO, or CN staff member designated by the CEO, to a Council Meeting where a motion to adopt the report of the Committee of the whole is required, and the outcome recorded in the minutes of the Meeting.

Part C Addressing the Meeting

15 Mode of address

- 15.1 Any person addressing a Council Meeting or Extraordinary Council Meeting must stand. Any person addressing a Committee of Council Meeting may remain seated.
- 15.2 Any person addressing a Meeting must:
 - 15.2.1 address Councillors by their official designation (such as Lord Mayor, Deputy Lord Mayor, Chairperson or Councillor);
 - 15.2.2 address the Councillors not the gallery; and
 - 15.2.3 address and speak to a member of the public or CN staff member by their designation (that is, Mr, Ms or honorary title).

16 Questions

- 16.1 A Councillor may, by way of notice of motion submitted in accordance with section 47, ask a question for response by the CEO about the performance or operations of CN.
- 16.2 A Councillor is not permitted to ask a question with notice submitted in accordance with clause 16.1 that comprises a complaint against, or implies wrongdoing by, the CEO or a CN staff member.
- 16.3 The CEO, or CN staff member designated by the CEO, may respond to a question with notice submitted in accordance with clause 16.1 by way of a report included in the Business Papers for the Meeting or orally at the Meeting.
- 16.4 During a Meeting, a Councillor may put a question in relation to the relevant item of business:
 - 16.4.1 through the Chairperson, to another Councillor;
 - 16.4.2 through the Chairperson, to the CEO; or
 - 16.4.3 with the permission of the Chairperson and the CEO, to CN staff present at the Meeting. Councillor interactions with CN staff must comply with CN policies.
- 16.5 If a question is put to a person without notice in accordance with clause 16.1, that person may choose to take the question on notice to enable reference to be made to other persons or to documents and provide a response to the next Meeting.
- 16.6 During Meetings, Councillors must put questions directly, succinctly and without argument or discussion on the question.
- 16.7 If, in the view of the Chairperson, a question is not correctly put, the Chairperson may rule the question out of order.
- 16.8 The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or CN staff.
- 16.9 Routine or non-urgent requests for information should be referred as a Councillor Service Request in accordance with CN policies.

17 Public Voice and Public Briefings

- 17.1 Any person seeking to address Council may apply to address either the Public Voice Committee or Briefings Committee.
- 17.2 Any requests to address the Public Voice Committee or Briefings Committee will be considered in accordance with CN policies.

17.3 The Public Voice Committee and Briefings Committee are Committees of the Whole and the minutes of these meetings are reported to the next Council Meeting.

Part D Notices, Agendas and Business Papers

18 Notice to Councillors of Meetings

- 18.1 The CEO must send to each Councillor a notice of Meeting specifying the following:
- 18.1.1 location of the Meeting;
 - 18.1.2 time of the Meeting;
 - 18.1.3 date on which the Meeting is to be held; and
 - 18.1.4 business proposed to be transacted at the Meeting (Agenda).
- 18.2 A notice of Meeting in accordance with clause 18.1 must be sent to Councillors:
- 18.2.1 in the case of a Council Meeting or Committee of Council Meeting, at least seven days before the Meeting; or
 - 18.2.2 in the case of an Extraordinary Meeting, at least three days before the Meeting, except where an Extraordinary Council Meeting is called because of an emergency (as determined by the Lord Mayor or CEO), three days' notice is not required.
- 18.3 The notice, Agenda and the Business Papers relating to the Meeting may be given to Councillors in electronic form, if all Councillors have facilities to access the notice, Agenda and Business Papers in that form.

19 Notice to the public of Meetings

- 19.1 Council must give notice to the public of the time, date and place of each Meeting, including Extraordinary Meetings. Notice of more than one Meeting may be given in the same notice.
- 19.2 Prior to a Meeting taking place, the notice must be published on CN's website, and in such other manner that Council is satisfied is likely to bring notice of Meetings to the attention of as many people as possible.

20 Agenda and Business Papers

- 20.1 The CEO must ensure the Agenda for a Meeting is prepared as soon as practicable before the Meeting and states:
- 20.1.1 all matters to be dealt with arising out of the proceedings of the previous Meeting including all unresolved business;
 - 20.1.2 if the Lord Mayor is the Chairperson, any matter that the Chairperson proposes, at the time when the Business Paper is prepared, to put to the Meeting as a Lord Mayoral Minute;
 - 20.1.3 all matters including matters that are the subject of CN staff reports and reports of Committee Meetings to be considered at the Meeting; and
 - 20.1.4 any business of which due notice has been given under section 47.
- 20.2 Nothing in clause 20.1 limits the power of the Lord Mayor to put a Lord Mayoral Minute to a Meeting under section 46.
- 20.3 If in the opinion of the CEO an item of business is a matter that is likely to be considered in a closed part of a Meeting in accordance with Part G:
- 20.3.1 the confidential nature of the item of business and the grounds on which the meeting will be closed is to be indicated on the Agenda;
 - 20.3.2 the confidential business may be set out in confidential Business Papers; and

- 20.3.3 the confidential business must be referred to in the general Business Papers prepared for the same Meeting.
- 20.4 The CEO must make the Agenda and Business Papers for a Meeting available to Councillors before making the Business Papers available to members of the public.
- 20.5 If in the opinion of the CEO, the confidential nature of an item of business listed on Agenda is such that circumstances require the CEO to take additional steps to protect the confidentiality of the item, the CEO may:
 - 20.5.1 distribute the Business Paper in hard copy only on the night of the Meeting; and
 - 20.5.2 require that Councillors return the Business Paper at the conclusion of the Meeting.

In such circumstances notice will be included on the Agenda.

21 Availability of Agenda and Business Papers to the public

- 21.1 The CEO must make the Business Papers available on CN's website as close as possible to the time they are available to Councillors.
- 21.2 The CEO must make the Agenda and general Business Papers for a Meeting available to members of the public for inspection as soon as practicable at no cost before and during the Meeting.
- 21.3 The CEO will make the Agenda and general Business Papers for a Meeting available to members of the public for taking away at no cost if a request is lodged with CN at least 24 hours prior to the Meeting. Copies may be given or made available in electronic form.
- 21.4 Confidential Business Papers will not be made available to the public.
- 21.5 The CEO must not include in the Agenda for any Meeting any business of which due notice has been given if, in the opinion of the CEO, the business is (or the implementation of the business would be) unlawful. The CEO must report any such exclusion to the Meeting.
- 21.6 During, at the close of a Meeting, or the day after a Meeting, reasonable access must be provided to any person to inspect correspondence or reports laid on the table at, or submitted to, a Meeting that were not available prior to the Meeting, except if in relation to a matter considered in a closed part of a Meeting in accordance with Part G.
- 21.7 Clause 21.6 does not apply if the Meeting resolves, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act. Such correspondence or reports are to be marked with the applicable relevant provision of section 10A(2) of the Act.

22 Late items of business

- 22.1 For a Meeting (including an Extraordinary Council Meeting) to consider an item not listed for consideration on the Business Papers:
 - 22.1.1 the Meeting must pass a motion to have the business transacted at the Meeting; and
 - 22.1.2 the Chairperson must rule the business proposed to be brought to be of great urgency on the grounds that it requires a decision by Council before the next scheduled Council meeting.
- 22.2 A motion to consider a late item of business at an Extraordinary Council Meeting may only be considered after all other items of the Agenda have been considered.

- 22.3 A motion to consider a late item of business is a Procedural Motion in accordance with Part K.
- 22.4 Nothing in this section limits the discretion of the Chairperson in respect of Lord Mayoral Minutes provided for in section 47.

23 Report on investigation

- 23.1 When a report of an investigation conducted under Part 5 Division 1 of the Act is presented to a Meeting in accordance with section 433 of the Act, Council must ensure that the report is:
- 23.1.1 tabled at that Meeting; and
 - 23.1.2 available for the information of Councillors and members of the public at all reasonable times.

24 Petitions

- 24.1 If a person would like a petition to be tabled at a Meeting, that person should provide the petition to the CEO by 5pm on the day 12 days before the Meeting or to a Councillor sufficiently in advance of the Meeting.
- 24.2 A petition should contain the following information:
- 24.2.1 a clear and concise statement identifying the subject of the petition;
 - 24.2.2 a statement specifying the number of pages of the petition and the number of signatures; and
 - 24.2.3 the full printed name, address, phone number and signature of the person lodging the petition, together with the name of the organisation/group they represent (if the petition is submitted on behalf of an organisation or group).
 - 24.2.4 A copy of the petition, other than information as at 24.2.1 and 23.2.2, will not be included in Council's Business Papers, and therefore will not be made publicly available. A copy of the petition will however, be circulated to the Councillors for their information and/or to assist in performing their civic duty.

25 Lord Mayoral actions

- 25.1 If in cases of necessity the Lord Mayor has exercised a policy making function of Council between Meetings, the Lord Mayor must report his or her actions to the next Meeting.

Part E Chairperson

26 Chairperson of Meetings

26.1 The Chairperson of a Meeting must be:

26.1.1 the Lord Mayor;

26.1.2 the Deputy Lord Mayor; or

26.1.3 if the Lord Mayor and the Deputy Lord Mayor are absent from the Council Meeting or an Extraordinary Council Meeting, a Councillor elected to chair the Meeting by the Councillors present in accordance with section 27.

26.1.4

27 Election of Chairperson

27.1 If required, the election of a Chairperson must be:

27.1.1 the first item of business of the Meeting; and

27.1.2 conducted:

(a) by show of hands;

(b) by the CEO or CN staff member designated by the CEO; or

(c) if neither the CEO nor a CN staff member designated by the CEO are present, by the person who called the Meeting or a person acting on their behalf.

27.2 If two or more Councillors receive the same number of votes and no other candidate receives a greater number of votes:

27.2.1 the person conducting the election must arrange for the names of the Councillors who have equal numbers of votes to be written on similar slips and then fold the slips to prevent the names from being seen, mix the slips and draw one of the slips at random; and

27.2.2 the Councillor whose name is on the drawn slip is the Chairperson.

28 Precedence of Chairperson

28.1 When the Chairperson rises during any Meeting:

28.1.1 any person speaking or seeking to speak must, if standing, immediately resume his or her seat; and

28.1.2 every person present must be silent to enable the Chairperson to be heard without interruption

Part F Meeting Attendance

29 Public

- 29.1 All Meetings are open to the public except those Meetings (or parts of Meetings) which are by resolution closed to the public as provided in Part G.
- 29.2 The public must act in a respectful manner and in accordance with any directions of the Chairperson.
- 29.3 A member of the public is not entitled to be present at a Meeting if that person has been expelled from that Meeting as provided in section 80.
- 29.4 If a Meeting (or part of a Meeting) is closed to the public in accordance with Part G any person who is not a Councillor who fails to leave the Meeting when requested may be expelled from the Meeting.

30 Councillors, CEO and CN staff

- 30.1 All Councillors and the CEO are entitled to attend Meetings.
- 30.2 CN staff may attend Meetings for the purpose of providing information and advice to the Meeting with the approval of the CEO.
- 30.3 A Councillor, or any other person, is not entitled to be present at a Meeting if that person has been expelled from that Meeting as provided in section 80.

31 Exclusion of the CEO or CN staff

- 31.1 A Meeting may, by resolution, exclude the CEO from part of a Meeting if the matter under consideration relates to:
 - 31.1.1 the terms and conditions of the CEO's employment; and/or
 - 31.1.2 any issue related to the CEO's performance of contract.
- 31.2 A Meeting may, by resolution, exclude CN staff from part of a Meeting if the matter under consideration at that part of the Meeting relates to CN staff employment matters or a related issue.

Part G Closing Meetings

32 Bases for closing Meetings

- 32.1 A Meeting may resolve to close all, or part, of any Meeting which is to consider:
- 32.1.1 personnel matters concerning particular individuals (other than Councillors);
 - 32.1.2 the personal hardship of any resident or ratepayer;
 - 32.1.3 information that would, if disclosed, confer a commercial advantage on a person with whom CN is conducting (or proposes to conduct) business;
 - 32.1.4 commercial information of a confidential nature that would, if disclosed:
 - (a) prejudice the commercial position of the person who supplied it;
 - (b) confer a commercial advantage on a competitor of CN; or
 - (c) reveal a trade secret.
 - 32.1.5 information that would, if disclosed, prejudice the maintenance of law;
 - 32.1.6 matters affecting the security of the Council, Councillors, CN staff or CN property;
 - 32.1.7 advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege provided that the advice concerns legal matters that:
 - (a) are substantial issues relating to a matter in which the Meeting;
 - (b) are clearly identified in the advice; and
 - (c) are fully discussed in that advice; and
 - 32.1.8 information concerning the nature and location of a place or an item of Aboriginal significance on community land; and
 - 32.1.9 alleged contraventions of CN's Code of Conduct.
- 32.2 A Meeting may close to the public so much of the Meeting as it comprises a motion to close another part of the Meeting to the public.
- 32.3 A Meeting must only remain closed during the discussion of matters referred to in this section if:
- 32.3.1 closing the Meeting is necessary to preserve confidentiality, privilege or security; and
 - 32.3.2 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) that on balance is contrary to the public interest.
- 32.4 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:
- 32.4.1 a person may misinterpret or misunderstand the discussion; or
 - 32.4.2 the discussion of the matter may:
 - (a) cause embarrassment to CN, Council, a Committee of Council, Councillors, the CEO or any CN staff; or
 - (b) cause a loss of confidence in CN, Council or a Committee of Council.
- 32.5 For the purpose of determining whether part of a Meeting is to be closed to the public, the Meeting must consider any relevant guidelines issued by the Secretary of the Department of Planning, Industry and Environment.

- 32.6 Part of a Meeting may be closed to the public without prior identification in the Agenda in accordance with section 19, if:
- 32.6.1 it becomes apparent during the course of the Meeting that discussion of a particular matter, the item is a matter referred to in clause 32.1; and
 - 31.6.2 after consideration of any public representations made under section 34, the Meeting resolves that further discussion of the matter:
 - (a) should not be deferred (because of the urgency of the matter), and
 - (b) should take place in a part of the Meeting that is closed to the public.

33 Motion to close a Meeting

- 33.1 A motion to close a Meeting (or part of a Meeting) must indicate:
- 33.1.1 the bases for closing the Meeting as provided in section 32; and
 - 33.1.2 a brief explanation of why discussion of the matter in an open Meeting would be, on balance, contrary to the public interest except if the matter is:
 - (a) a personnel matter concerning particular individuals;
 - (b) about the personal hardship of a resident or ratepayer; or
 - (c) a trade secret.
- 33.2 Only business stated in the motion to close the Meeting may be transacted during the closed Meeting (or part of a Meeting).
- 33.3 The motion to close the Meeting and the bases for the closure must be recorded in the minutes of the Meeting.

34 Public representations

- 34.1 Before a Meeting (or part of a Meeting) is closed, members of the public are permitted to make representations to the Meeting about whether the Meeting should be closed to the public.
- 34.2 Where the matter has been identified in the Agenda of the Meeting under section 32 as a matter that is likely to be considered when the Meeting is closed to the public
- 34.2.1 in order to make public representations, an application must first be made to Council in the approved form. Applications must be received by 5.00pm two business days before the Meeting at which the matter is to be considered; and
 - 34.2.2 the CEO or designated CN staff member will determine the order of speakers to a maximum of two. If more than two speakers apply to make representations under section 34.1, the CEO or designated CN staff member may request the speakers to nominate from among themselves the persons who are to make representations to the Meeting. If the speakers are not able to agree on whom to nominate to make representations the CEO or designated CN staff member is to determine who will make representations to the Meeting; and
 - 34.2.3 the CEO or designated CN staff member may refuse an application and must give written reasons for a decision to refuse an application.
- 34.3 Where the Meeting proposes to close a Meeting (or part of a Meeting) to the public in circumstances where the matter has not been identified in the Agenda for the Meeting in accordance with section 19 as a matter that is likely to be considered when the Meeting is closed to the public the Chairperson is to invite public representations under clause 34.1 after the motion to close the Meeting (or part of

a Meeting) is moved and seconded. The Chairperson is to permit no more than two speakers and determine the order of speakers.

- 34.4 Public representations must be limited to two minutes per person and this time limit is to be strictly enforced by the Chairperson. Speakers must confine their representations to whether the Meeting (or part of a Meeting) should be closed to the public. If a speaker digresses to irrelevant matters, the Chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the Chairperson, the speaker will not be further heard.

35 Matters not identified as confidential

- 35.1 If a matter has not been identified in the Agenda as being heard in a closed Meeting but it becomes apparent during discussion that the matter is a matter referred to in clause 32.1, the Meeting must:

35.1.1 consider any public representations;

35.1.2 determine (by resolution) whether the matter is a matter that can be deferred to the next Meeting; and

35.1.3 if the matter cannot be deferred, determine (by resolution) to close the Meeting as provided in this Part.

36 Access to Business Papers relating to closed Meetings

- 36.1 Where a Meeting closes any part of a Meeting, the Meeting may determine (by way of resolution) to provide public access to the Business Papers and minutes on a specified date.

- 36.2 The public must not be provided with access to Business Papers and minutes of a closed Meeting (or part of a Meeting) if the Meeting considered:

36.2.1 personnel matters concerning particular individuals;

36.2.2 the personal hardship of any resident or ratepayer;

36.2.3 a trade secret;

36.2.4 a matter, which if disclosed, could give rise to an action for a breach of confidence;

36.2.5 a matter, which if disclosed, would constitute an offence against an Act; or

36.2.6 part of a draft or adopted plan of management that is the subject of a resolution of confidentiality under section 36DA of the Act.

37 Resolutions passed at closed Meetings

- 37.1 If a Meeting passes a resolution during a Meeting (or part of a Meeting) that is closed to the public, the Chairperson must make the resolution publicly available as soon as practical after the Meeting (or part of the Meeting) has ended during a part of the Meeting that is webcast in accordance with section 43.

Part H Minutes

38 Recording Minutes

- 38.1 The CEO, or a CN staff member designated by the CEO, must ensure that full and accurate minutes of the proceedings of Meetings are kept including recording all motions, amendments and resolutions .
- 38.2 The following matters should generally be included in the minutes of a Meeting:
 - 38.2.1 details of each motion moved and any amendments;
 - 38.2.2 the names of the mover and seconder of each motion and amendment;
 - 38.2.3 whether each motion and amendment is passed or lost;
 - 38.2.4 the circumstances and reasons relating to the absence of a quorum together with the names of the Councillors present;
 - 38.2.5 the dissenting vote of a Councillor, if requested;
 - 38.2.6 if a division is called, the names of the Councillors who voted for the motion and against the motion;
 - 38.2.7 the grounds for closing part of a Meeting to the public;
 - 38.2.8 the disclosure of a conflict of interest; and
 - 38.2.9 the conduct of an election and outcome of a vote held under section 27.
- 38.3 The CEO, or a Council Officer designated by the CEO, may record a Meeting by way of an electronic recording device as provided in Part I.

39 Confirmation of Minutes

- 39.1 A motion proposing the adoption of the minutes as an full and accurate statement of the business transacted at the previous Meeting must be dealt with before proceeding to consider other items of business.
- 39.2 A motion to adopt the minutes of the previous Meeting should be proposed and seconded by Councillors who were present at the Meeting to which the minutes relate.
- 39.3 Debate relating to a motion to adopt the minutes of the previous Meeting is restricted to the accuracy of the minutes as a true record of the Meeting.
- 39.4 Minutes of a Council Meeting may be confirmed at an Extraordinary Council Meeting. Minutes of an Extraordinary Council Meeting may be confirmed at a Council Meeting. Minutes of a Committee of Council Meeting should ordinarily be confirmed at the next Meeting of that Committee of Council.
- 39.5 Confirmed minutes must be published on CN's website.

40 Signature

- 40.1 The minutes of the previous Meeting must be signed and dated by the Chairperson at the subsequent Meeting after they have been confirmed as being an accurate record.

41 Correction of errors

- 41.1 The confirmed minutes of a Meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the Meeting.

Part I – Recording, webcasting and photography

42 Use of mobile phones and recording of Meetings

- 42.1 **Record**, for the purpose of this section, refers to recording by any electronic device capable of recording speech including a video camera.
- 42.2 Recording a Meeting is recording the Meeting as Webcast and in Minutes and should not be a Recording of any private third party conversations or comments within the Meeting room of Councillors, CN staff, guests or members of the gallery.
- 42.3 The CEO, or a CN staff member designated by the CEO, may Record a Meeting. Recordings will only be used to ensure the accuracy of the minutes of the Meeting and as required by law.
- 42.4 Journalists or members of a recognised media organisation may Record the Meeting provided written notice has been lodged with Lord Mayor/Chairperson and CEO by 5pm on the day of the Meeting. A person may be expelled from a Meeting for Recording a Meeting without notice. Recordings may only be used for the purpose of accuracy of reporting as notes for accuracy of minutes or quotes, and are not for broadcast on any channel or device, or to be shared publicly.
- 42.5 Any other person (including members of the public) may only Record a Meeting with the authority of the Meeting. A person may be expelled from a Meeting for Recording a Meeting without authority.
- 42.6 Only Councillors, the CEO, CN staff designated by the CEO or persons permitted by law are entitled to access Recordings of Meetings.
- 42.7 Councillors are entitled to listen to or make a copy of the Recording of a Meeting for the purpose of ensuring the accuracy of the minutes of the Meeting or a purpose directly related to that purpose.
- 42.8 The Recording of a Meeting must be kept in a safe place for a minimum of 12 months from the date of the Meeting and only be destroyed in accordance with the State Records Act 1998.
- 42.9 Councillors, CN staff and members of the public must ensure that mobile phones are turned to silent during Meetings.

43 Webcasting

- 43.1 All Meetings will be Webcast on CN's website. No other person may live stream the proceedings of a Meeting.
- 43.2 At the start of each Meeting, the Chairperson must advise the Meeting room that the Meeting will be Webcast and that those in attendance should refrain from making any defamatory statements.
- 43.3 The CEO will ensure:
- 43.3.1 persons in the Meeting room are advised that the Meeting will be Webcast by providing notification on signs in the Meeting room and such other notices as required; and
- 43.3.2 Webcasting is terminated if:
- (a) the Meeting is closed as provided in section in Part G; or
 - (b) the CEO or the Meeting are of the opinion that continued Webcasting may prejudice the Meeting or infringe the rights or safety of an individual.
- 41.4 A copy of the Webcast of each Meeting will be retained on CN's website for two months and may be destroyed in accordance with the State Records Act 1998.

44 Photography

- 44.1 Photography in the Council Chamber is generally allowed except as restricted by the relevant legislation. The Chairperson may direct any person in the Council Chamber who is in breach of legislation to refrain from taking photographs.

Part J Motions

45 Chairperson's duty with respect to motions

- 45.1 The Chairperson must:
 - 45.1.1 receive and put to a Meeting any lawful motion that is brought before that Meeting; and
 - 45.1.2 rule out of order any motion or amendment that is unlawful or the implementation of which would be invalid.
- 45.2 Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to be rejected.
- 45.3 Before ruling a motion or amendment out of order, the Chairperson must give the mover an opportunity to clarify or amend the motion or amendment.
- 45.4 When a motion contrary to a recommendation of a report of a Committee or CN staff is put to a Meeting, the Chairperson must ask the CEO (before the motion is debated) whether there is any legal, technical, operational or procedural reason why the motion should not be carried.

46 Lord Mayoral Minute

- 46.1 The Lord Mayor is entitled to put to a Council or Committee of Council Meeting, without notice, in the form of a written, signed minute (**Lord Mayoral Minute**), any matter that is within the jurisdiction of Council or of which Council has official knowledge and that the Lord Mayor wishes to bring to the attention of the Meeting. The Lord Mayor is entitled to put a Lord Mayoral Minute to an Extraordinary Council Meeting if notice of the Lord Mayoral Minute is included in the notice of the Extraordinary Council Meeting.
- 46.2 A Lord Mayoral Minute must not be used to put without notice matters that are routine and not urgent (where it requires a decision by Council before the next scheduled Ordinary Council Meeting), or matters for which proper notice should be given because of their complexity.
- 46.3 The Lord Mayor may move the adoption of a Lord Mayoral Minute without the motion being seconded.
- 46.4 A recommendation made in a Lord Mayoral Minute is, so far as adopted by the Meeting, a resolution of the Meeting.
- 46.5 A Chairperson who is not the Lord Mayor is not entitled to put a Lord Mayoral Minute to a Meeting.

47 Notices of motion

- 47.1 A motion must only be considered at a Meeting if:
 - 47.1.1 notice of the motion in writing is received by the CEO by 5pm on the day 12 days before the scheduled Meeting; and
 - 47.1.2 notice of the motion has been sent to Councillors in accordance with Part D.
- 47.2 Where the notice of motion requires expenditure of funds on works and/or services other than those already provided for in Council's current adopted operational plan, the CEO may:
 - 47.2.1 arrange for the preparation of a report on the availability of funds for implementing the motion if adopted; or
 - 47.2.2 defer consideration of the matter by Council pending the preparation of such a report. Councillors will be notified in writing where a matter is to be deferred.

- 47.3 This section does not apply to the consideration of business at a Meeting if the business:
- 47.3.1 is already before or directly relates to a matter that is already before the Meeting;
 - 47.3.2 is the election of a Chairperson to preside at the Meeting;
 - 47.3.3 is put to the Meeting as a Lord Mayoral Minute; or
 - 47.3.4 is a motion for the adoption of the recommendations of a Committee of Council.
- 47.4 A Councillor may, in writing to the CEO, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the Agenda and Business Paper for the Meeting at which it is to be considered.
- 47.5 A Councillor who has submitted a notice of motion under this section may request the Meeting to withdraw the motion when it is before the Meeting. A notice of motion submitted in relation to rescission or altering of motions in accordance with clause 65.1 may only be withdrawn with the consent of all signatories to the notice of motion.
- 47.6 A Councillor who has submitted a notice of motion under this section is to move the motion that is the subject of the notice of motion at the Meeting at which it is being considered. Where the Councillor is absent, the provisions of section 54 Absence of mover of notice of motion will apply.

48 Unacceptable motions

- 48.1 The Chairperson may rule that a motion or an amendment is out of order if, in the view of the Chairperson, the proposed motion or amendment:
- 48.1.1 is vague and equivocal in its language;
 - 48.1.2 is the direct negative of, or is inconsistent with, a resolution passed by the Meeting;
 - 48.1.3 is an amendment which is a direct negative of the motion which it proposes to amend;
 - 48.1.4 proposes an action that is unlawful;
 - 48.1.5 is outside the authority of the Meeting;
 - 48.1.6 contains defamatory statements;
 - 48.1.7 is unnecessary in that it proposes a course of action or policy already resolved by the Meeting;
 - 48.1.8 is vexatious; or
 - 48.1.9 is proposed solely as a way to impede the orderly transaction of business.
- 48.2 A Councillor may move a motion of dissent to a ruling under this section in accordance with section 61.

49 Repeat motions

- 49.1 A notice of motion having the same effect as a motion rejected by a Meeting may be lodged if less than three months has elapsed since the resolution was rejected and if signed by three councillors.
- 49.2 If a motion previously rejected by a Meeting is again rejected by a Meeting, no motion to the same effect may be brought to any Meeting within three months of that rejection.
- 49.3 The provisions of this section may not be evaded by substituting a motion differently worded, but in principle the same.

50 Motions to be seconded

50.1 Unless a seconder is not required in accordance with the Code:

50.1.1 a motion or amendment cannot be spoken to until it has been seconded;
and

50.1.2 a motion or amendment that is not seconded lapses.

51 Motions put without debate or discussion

51.1 Provided there is no objection from any Councillor present, any motion before a Meeting may be put to the vote without discussion or debate.

52 Limitations of speeches

52.1 A Councillor who moves a motion has:

52.1.1 the right of first address to the Meeting;

52.1.2 the right of reply to the motion, which must not address any material or argument that has not already been put to the Meeting; and

52.1.3 the right to speak to any amendment.

52.2 A Councillor who seconds a motion has a right to address the Meeting before the motion is put.

52.3 A Councillor (other than the mover of a motion) has the right to speak once to the motion and once on each amendment. A Councillor may not, without the consent of the Meeting, speak more than once to a motion or an amendment. This does not apply if Council resolves itself into a Committee of the whole pursuant to section 14.

52.4 Ordinarily, Councillors will be permitted to speak to a motion in the order in which they indicate an intention to speak to a motion. However, once the mover of a motion and (unless they choose to hold over their speaking rights) the seconder of a motion have spoken to the motion:

52.4.1 the Chairperson may enquire of those Councillors wishing to speak whether they are speaking for or against a motion;

52.4.2 the Chairperson may alternate the speaking order of Councillors, against and for the motion having regard to the order in which Councillors have indicated an intention to speak to a motion; and

52.4.3 once two Councillors have spoken for the motion and two Councillors have spoken against the motion, or no Councillor expresses an intention to speak against the motion, a Procedural Motion that the motion be now put may be moved by any Councillor pursuant to section 60.

50.5 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

53 Time for speeches

53.1 A Councillor may not, without the consent of the Meeting, speak for longer than five minutes at any one time.

53.2 If a Councillor asks a question, the time taken for the question to be answered is not included in the five minutes allowed for the Councillor's address.

53.3 The Chairperson may permit a Councillor, who claims to have been misrepresented or misjudged, to make an additional statement explaining only the misrepresentation or misunderstanding for no longer than an additional five minutes.

- 53.4 The Meeting may resolve to reduce the duration of speeches to expediate the consideration of business at a Meeting.
- 53.5 This section does not apply if Council resolves itself into a Committee of the whole pursuant to section 14.

54 Absence of mover of notice of motion

- 54.1 If a Councillor who has placed a notice of motion on the Business Papers is absent from a Meeting:
- 54.1.1 the Chairperson may defer the motion until the next Meeting at which the motion can be considered; or
 - 54.1.2 any other Councillor may move the motion at the Meeting.

55 Amendments

- 55.1 Any Councillor may propose an Amendment to any motion put to a Meeting. An Amendment to a motion must relate to the matter being dealt with in the original motion before the Meeting and must not be a direct negative of the original motion. An Amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the Chairperson.
- 55.2 An Amendment to a motion requires a mover and a seconder. The Amendment must be dealt with before voting on the original motion. Debate is allowed only in relation to the amendment and not the original motion (the original motion is suspended while the Amendment is considered). The mover of an Amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 55.3 An Amendment may become the motion without debate or a vote where it is accepted by mover of the original motion.
- 55.4 If the Amendment is passed, the motion is changed to include the Amendment and this new motion is debated. If the Amendment is not supported, the original motion stays in its original form and debate resumes.
- 55.5 Only one Amendment should be before the Meeting at any time. If several Amendments are proposed, each should be moved, seconded, debated and voted on before the next. Where possible, the Amendments should be put forward and debated in the order in which they affect the original motion.
- 55.6

56 Foreshadowed Motions

- 56.1 A Councillor may advise a Meeting of an intention to put forward a Foreshadowed Motion in relation to the matter the subject of the original motion before the Meeting, without a seconder during debate on the original motion. The Foreshadowed Motion is only to be considered if the original motion is lost or withdrawn and the Foreshadowed Motion is then moved and seconded. If the original motion is carried, the Foreshadowed Motion lapses.
- 56.2 Where an Amendment has been moved and seconded, a Councillor may, without a seconder, foreshadow a further Amendment that they propose to move after the first Amendment has been dealt with. There is no limit to the number of foreshadowed Amendments that may be put before the Meeting at any time. However, no discussion can take place on foreshadowed Amendments until the previous Amendment has been dealt with and the foreshadowed Amendment has been moved and seconded.
- 56.3 The Chairperson cannot accept a Foreshadowed Motion until the original motion is decided.

- 56.4 Foreshadowed Motions and foreshadowed Amendments must be dealt with in the order in which they have been brought to the attention of the Meeting. However, Foreshadowed Motions cannot be considered until all foreshadowed Amendments have been dealt with.
- 56.5 The Chairperson may rule any Foreshadowed Motion to be new business and therefore out of order.

Part K Procedural Motions

57 General

57.1 All motions provided in this Part are Procedural Motions.

57.2 Procedural Motions:

57.2.1 must be accepted by the Chairperson;

57.2.2 must be seconded unless otherwise provided in this Part; and

57.2.3 can not be amended except to provide clarification.

57.3 Notice requirements in the Code do not apply to Procedural Motions.

58 Motion to recommit a matter

58.1 If during the Meeting a Councillor becomes aware that they have misunderstood a matter on which a vote has already been taken, the Councillor may request that the matter be recommitted.

58.2 The mover of a motion to recommit a matter may speak only to their misunderstanding of the matter and may not speak to the substantive motion, the vote or the resolution.

59 Motion to alter order of business

59.1 The order of business at any Meeting (except an Extraordinary Council Meeting) may be altered if a resolution to that effect is carried.

59.2 Only the mover of a motion to alter the order of business may speak to the motion before it is put. The seconder has no right to address the Meeting and there is no right of reply.

60 Motion that a motion be now put

60.1 A Councillor may move that a motion or amendment be now put:

60.1.1 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

60.1.2 if at least two Councillors have spoken in favour of the motion or amendment and at least two Councillors have spoken against it.

60.2 Only the mover of a motion that a motion be now put may speak to the motion before it is put. A seconder is not required.

60.3 If the motion that a motion be now put is passed, the Chairperson must not allow further debate or comment by any person except for the right of reply by the mover of the motion or amendment.

60.4 If a motion that the original motion or amendment be now put is rejected, the Chairperson must allow the debate on the motion or amendment to be resumed.

61 Motion of dissent

61.1 A Councillor may, without notice, move a motion of dissent from a ruling of the Chairperson on a point of order or a question of order except on whether a matter is of great urgency in relation to a late item of business in accordance with clause 22.

61.2 The Chairperson must suspend the business of the Meeting until a decision is made on the motion of dissent.

61.3 Only the mover of a motion of dissent and the Chairperson may speak to the motion before it is put. The mover of a motion of dissent does not have a right of

reply and the Chairperson must put the motion of dissent to the Meeting immediately after the Chairperson has spoken to it.

61.4 If a motion of dissent is carried, the Chairperson must recommence the suspended business as though the ruling dissented from had not been given.

61.5 If, as a result of the ruling overturned by the motion of dissent, any motion or business had been discharged as out of order, the Chairperson must restore the motion or business to the Agenda and proceed in accordance with the Code.

62 Motion to adjourn a matter

62.1 A Councillor may move a motion to adjourn a matter under consideration if the Councillor has not exercised their right to speak to the substantive motion before the Meeting.

63 Motion to adjourn a Meeting

63.1 A Councillor may move a motion to adjourn a Meeting.

63.2 If a Meeting resolves to adjourn the Meeting for 24 hours or less, notice is not required to reconvene the Meeting.

63.3 If a Meeting resolves to adjourn the Meeting for longer than 24 hours, notice for the reconvening of the Meeting must be given as provided in the Act and Regulation.

64 Motion to refer the matter

64.1 A Councillor may move a motion to refer a matter to a Committee of Council or an Advisory Committee.

65 Motion that the matter be left on the table

65.1 A Councillor may move a motion that the matter be left on the table if the Councillor has not exercised their right to speak to the substantive motion before the Meeting.

66 Motion that a motion be voted on in seriatim

66.1 Where a motion comprises multiple parts, a Councillor may move a motion that the matter be voted on in seriatim.

Part L Rescission

67 Rescinding or altering resolutions

- 67.1 A resolution (or part of a resolution) passed by a Meeting may not be rescinded or altered except by a motion to that effect of which notice has been given. The notice of motion must be:
- 67.1.1 signed by three Councillors if less than three months has elapsed since the resolution was passed;
 - 67.1.2 provided to the CEO by 5pm on the day 12 days before the scheduled Meeting; and
 - 67.1.3 sent to Councillors in accordance with Part D.
- 67.2 If notice of a motion to rescind a resolution is given at the Meeting at which the resolution was carried, the resolution must not be carried into effect until the rescission motion has been dealt with.
- 67.3 A notice of motion to rescind a resolution which involves the granting of development consent under the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**) should not be given after that development consent is effective in accordance with the EP&A Act.
- 67.4 If a motion to rescind or alter a resolution is rejected by a Meeting, no motion to the same effect may be brought forward to any Meeting within three months of that rejection.
- 67.5 The provisions of this Part may not be evaded by substituting a motion differently worded but in principle the same.
- 67.6 A motion to which this section applies may be moved on the report of a Committee of Council and any such report must be recorded in the minutes.
- 67.7 The provisions of this Part do not apply to Procedural Motions.

Part M Voting

68 Voting entitlements

- 68.1 A decision of a Meeting in accordance with section 12, is made by way of voting on a motion which has been appropriately moved and seconded, or as provided for under this Code.
- 68.2 Each Councillor is entitled to one vote on each motion put to a Meeting while that Councillor is present in the Meeting room.
- 68.3 A Councillor who is present in the Meeting room but who fails to vote on a motion put to the Meeting is taken to have voted against the motion.
- 68.4 A Councillor who is absent from the Meeting room when a vote on a motion is put to the Meeting is not counted as having cast a vote.
- 68.5 Voting at a Meeting must be by open means (such as on the voices or by a show of hands or by visible electronic voting system) except in relation to the election of a Deputy Lord Mayor which shall be conducted in accordance with the Regulation.
- 68.6 The CEO is not entitled to vote at Meetings.

69 Casting vote

- 69.1 The Chairperson of a Meeting has in the event of an equality of votes a second or casting vote.
- 69.2 Before a Chairperson exercises their second or casting vote, they must have exercised their vote in their own right.
- 69.3 Where the Chairperson declines or fails to exercise their second or casting vote, in the event of an equality of votes, the motion being voted on is rejected.

70 Counting of votes

- 70.1 The decision of the Chairperson about the result of a vote is final unless a Councillor immediately requests a show of hands or two Councillors immediately request a division.

71 Voting by division

- 71.1 If two Councillors request voting by division, the Chairperson must ensure that:
 - 71.1.1 the division takes place immediately; and
 - 71.1.2 each Councillor stands to vote, is identified by name to the Meeting and whether they are for or against the motion.
- 71.2 The CEO must ensure the names of Councillors who voted for and against the motion are recorded in the Meeting's minutes.
- 71.3 Councillors abstaining from voting in a division are taken to have voted against the motion.

72 Recording of voting

- 72.1 A Councillor who has voted against a motion put at a Meeting (including any Meeting that is closed to the public) can request the CEO ensure that the Councillor's dissenting vote is recorded in the minutes.

73 Recording of voting on Planning Decisions

- 73.1 A division must be called whenever a motion for a Planning Decision is put at a Meeting (including any Meeting that is closed to the public). This is to assist the CEO to keep a register containing the names of the Councillors who voted for and

against the motion and described or identified in the register in a manner that enables the description to be obtained from another publicly available document.

Part N Disclosure Obligations

74 Conflicts of interest – Councillors

- 74.1 A Councillor must declare and manage a conflict of interest in accordance with legislation and the Code of Conduct before the matter to which the conflict relates is considered by the Meeting.
- 74.2 When a Councillor declares a conflict of interest the following must be recorded in the minutes of the Meeting:
 - 74.2.1 the details of the declaration (this must also be recorded in the register of disclosures); and
 - 74.2.2 the manner in which the conflict was managed (including the Councillor's times of departing and returning to the Meeting room (unless the Councillor is not required to leave the Meeting room)).

75 No knowledge

- 75.1 A person (including a Councillor and CN staff member) does not breach this Part 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 they had a conflict of interest.

76 Allegations of breaches of the Code of Conduct

- 76.1 A Councillor must not make allegations of suspected breaches of the Code of Conduct at Meetings.
- 76.2 An allegation of a breach of the Code of Conduct raised at a Meeting must be referred to the CEO (or Lord Mayor if the allegation is against the CEO) and not debated at the Meeting.

Part O Order

77 Point of order

- 77.1 A point of order may be raised about any procedural matter relating to the orderly conduct of the Meeting and without limitation may include:
- 77.1.1 Councillors speaking or whispering while another Councillor is addressing the Meeting;
 - 77.1.2 verbal interjections;
 - 77.1.3 failure to abide by the provisions of the Code;
 - 77.1.4 discourtesy to fellow Councillors during a Meeting;
 - 77.1.5 exceeding time limits without the agreement of the Meeting;
 - 77.1.6 addressing the Meeting without the permission of the Chairperson; or
 - 77.1.7 any actions or comments that could be considered to be a breach of the Code of Conduct.
- 77.2 A point of order may not be raised about adherence to the Principles set out in section 4.
- 77.3 A Councillor who claims that another person is out of order may call the attention of the Chairperson to the matter and state the provision of the Code they believe has been breached. A point of order does not require a seconder.

78 Question of order

- 78.1 The Chairperson may, without the intervention of any Councillor, call a person to order if, in the opinion of the Chairperson, it is necessary to do so.
- 78.2 The Chairperson must rule on a point of order immediately after it is raised but, before doing so, may invite the opinion of the Meeting by without limitation:
- 78.2.1 providing Councillors with an opportunity to express their view on the point of order; or
 - 78.2.2 providing Councillors with an opportunity to indicate, by open means (such as by voices or show of hands), whether they believe the behaviour or matter raised is out of order.
- 78.3 The Chairperson's ruling on a point of order must be obeyed unless a motion dissenting from the ruling is passed.

79 Act of disorder

- 79.1 A Councillor commits an act of disorder if the Councillor at a Meeting:
- 79.1.1 contravenes the Act or Regulation;
 - 79.1.2 assaults or threatens to assault another Councillor or person present at the Meeting;
 - 79.1.3 moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Meeting or addresses or attempts to address the Meeting on such a motion, amendment or matter;
 - 79.1.4 insults or abuses any other Councillor or person;
 - 79.1.5 makes personal reflections on or implies improper motives to any other Councillor or person;
 - 79.1.6 says or does anything that is inconsistent with maintaining order at the Meeting or is likely to bring the Council or Committee of Council into contempt; or

- 79.1.7 disturbs the orderly conduct of a Meeting.
- 79.2 The Chairperson must rule on an act of disorder immediately after it is raised but, before doing so, may invite the opinion of the Meeting by without limitation:
- 79.2.1 providing Councillors with an opportunity to express their view on the act of disorder; or
- 79.2.2 providing Councillors with an opportunity to indicate, by open means (such as by voices or show of hands), whether they believe the behaviour or matter raised is an act of disorder.
- 79.3 If a Councillor has committed an act of disorder, the Chairperson must request the Councillor to:
- 79.3.1 apologise without reservation for the act of disorder;
- 79.3.2 withdraw a motion or an amendment which is an act of disorder; and/or
- 79.3.3 retract the act of disorder.
- 79.4 If an act of disorder occurs at a Meeting, the Chairperson may adjourn the Meeting for a period of not more than 15 minutes. When the Meeting is reconvened after the adjournment, the Meeting must, on a question put by the Chairperson, decide whether to proceed with the Meeting. The motion to proceed with the Meeting is a Procedural Motion.
- 79.5 The Chairperson's ruling on an act of disorder must be obeyed unless a motion dissenting the ruling is passed.

80 Expulsion from a Meeting

- 80.1 A Councillor may be expelled from a Meeting by resolution of the Meeting (any Councillor may move a motion) for:
- 80.1.1 committing an act of disorder under section 79; and
- 80.1.2 failing to comply with a direction of the Chairperson pursuant to section 79.3.
- 80.2 Any other person may be expelled from a meeting by resolution (a Councillor may move a motion) of the Meeting or by the Chairperson if Council has resolved to authorise the Chairperson to exercise the power of expulsion.
- 80.3 A Meeting may by resolution readmit a Councillor or any other person who was expelled at an earlier part of the Meeting. Such motion may be moved by a Councillor.
- 80.4 The expulsion of a Councillor from the Meeting does not prevent any other action from being taken against the Councillor for the act of disorder.
- 80.5 A motion to expel or readmit a Councillor is a Procedural Motion.

81 Removal of persons after expulsion

- 81.1 The Chairperson may order the removal of a Councillor or any other person if they fail to leave the place where a Meeting is being held after being expelled from the Meeting.
- 81.2 If a Councillor or any other person fails to leave the place where the Meeting is being held after being expelled from a Meeting, the police may, be called to remove the person from the Meeting place.

Part P Committees of the Council

82 Establishment

- 82.1 Council may, by resolution, establish such Committees of the Council as it considers necessary.
- 82.2 Council may delegate any of its functions to a Committee of Council other than those functions identified in section 377 of the Act.
- 82.3 Council must specify the functions of each Committee of Council on establishing that Committee. Council may from time to time amend those functions.
- 82.4 The Meeting cycle for any Committee of Council will be determined from time to time by resolution of Council or the Committee of Council.

83 Membership

- 83.1 A Committee of Council is to consist of the Lord Mayor and such other Councillors as are elected or appointed by Council.
- 83.2 A Councillor ceases to be a member of a Committee of Council if the Councillor (other than the Lord Mayor):
 - 83.2.1 has been absent from three consecutive Meetings of the Committee of Council without providing reasons acceptable to the Committee of Council for the member's absences; or
 - 83.2.2 has been absent from at least half of the Meetings of the Committee of Council during the immediately preceding calendar year without providing to the Committee of Council acceptable reasons for the member's absences.
- 83.3 This section does not apply if all Councillors are members of the Committee of Council.

84 Attendance

- 84.1 A Councillor who is not a member of a Committee of Council is entitled to attend and speak at a Meeting of the Committee of Council.
- 84.2 A Committee of Council may by resolution permit a Councillor who is not a member of the Committee to give notice of business for inclusion in the Business Papers of the next Meeting of the Committee.

85 Quorum

- 85.1 The quorum for a Meeting of the Committee of Council is to be determined by resolution of Council and if not decided, is a majority of the members of the Committee of Council.
- 85.2 This section does not apply if all Councillors are members of the Committee of Council.

86 Voting

- 86.1 A Councillor who is not a member of the Committee of Council is not entitled to:
 - 86.1.1 move or second a motion at Committee of Council Meeting; or
 - 86.1.2 vote at the Committee of Council Meeting.

87 Recommendations

- 87.1 Council may consider the recommendations contained in a report of a Committee of Council either separately or concurrently.

87.2 The recommendations of a Committee of Council are, so far as adopted by the Council, resolutions of Council.

Part Q Advisory Committees

88 Council May Establish Advisory Committees

- 88.1 Council may by resolution establish such Advisory Committees as it considers necessary. The resolution must include the adoption of a constituting document (such as a Charter) and Meeting schedule.
- 88.2 The provisions of the Code do not apply to the operation or Meeting procedure of Advisory Committees.
- 88.3 Council may by resolution request that an Advisory Committee create a working party to consider a particular issue or undertake a particular activity.

89 Recommendations of Advisory Committees

- 89.1 An Advisory Committee must submit reports to Council or a Committee of Council in accordance with the Advisory Committee's constituting document but not less than annually.
- 89.2 Council or a Committee of Council may consider the recommendations contained in a report of an Advisory Committee either separately or all concurrently.
- 89.3 The recommendations of an Advisory Committee are, so far as adopted by the Council (or a Committee of Council), resolutions of the Council (or a Committee of Council).

Part R Briefings and Workshops

90 Briefings

- 90.1 The CEO may schedule Briefings for any Meeting.
- 90.2 Council or any Committee of Council (insofar as it is delegated the authority to do so) may by resolution request that the CEO schedule a Briefing on an issue. Such resolution must include a clear statement about the subject of the requested Briefing.
- 90.3 As they constitute part of a Meeting, all Briefings are open to the public except those Briefings which are by resolution closed to the public in accordance with Part G.

91 Workshops

- 91.1 The CEO may schedule Workshops and invite all Councillors to attend.
- 91.2 Council or any Committee of Council (insofar as it is delegated the authority to do so) may by resolution request that the CEO schedule a Workshop. The resolution must include a clear statement about the subject of the requested Workshop.
- 91.3 Workshops must not be used for detailed or advanced discussions where agreement is reached and/or a decision is made. No agreement will be sought from Councillors at Workshops.
- 91.4 Workshop briefing papers will contain information but no recommendations. Workshop briefing papers will be made available to all Councillors irrespective of whether they are in attendance at the Workshop.
- 91.5 All Workshops are closed to the public except those Workshops (or parts of the Workshop) which are opened to the public by resolution of Council or a Committee of Council (insofar as it is delegated the authority to do so) or the CEO.
- 91.6 The provisions of the Code (except this Part) do not apply to the operation or Meeting procedure of Workshops. Meeting procedures at Workshops will be agreed between the Workshop convenor and the participants.

Appendix A - Definitions

Act means the *Local Government Act 1993*.

Act of disorder means an action described in section 79 of this Code.

Advisory Committee means a committee established by resolution of Council, whose purpose is to provide guidance and make recommendations to Council within a particular area of expertise. Its members can consist of community members, members of key stakeholder groups and/or Councillors.

Agenda means the business proposed to be transacted at a Meeting.

Amendment in relation to an original motion, means a proposed alteration or addition to that motion

Apology means notification that a Councillor will not be attending a Meeting. An apology does not amount to a leave of absence.

Business day means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales.

Business Papers means any documents relating to the Agenda items of a Meeting.

Briefing means a presentation on a specified topic by the CEO, CN staff or invited persons followed by an opportunity for Councillors to ask questions regarding the topic.

CEO means the Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

Chairperson means the Chairperson identified in Part E.

City of Newcastle (CN) means Newcastle City Council.

Code means this Code of Meeting Practice.

Code of Conduct means the respective Codes adopted by resolution of Council being the Code of Conduct for Councillors; Code of Conduct for Staff; or Code of Conduct for Council Committee Members, Delegates of Council and Council Advisors, as the case may be..

Committee of Council means a committee of the whole of which all members are Councillors as provided by clause 259 of the Regulation.

Council means the governing body of City of Newcastle.

Councillor means a person elected or appointed to civic office as a member of the governing body of Council and includes the Lord Mayor.

Division means a request by two Councillors under section 71 of this Code requiring the recording of the names of the Councillors who voted both for and against a motion.

Foreshadowed Motion in relation to an original motion, means a proposed motion that is only to be considered if the original motion is rejected.

Meeting means a Council Meeting, Extraordinary Council Meeting or a Committee of Council Meeting. A specific reference to a Council Meeting, Extraordinary Council Meeting or a Committee of Council Meeting means the clause, section or Part applies only to that specific type of Meeting.

Minister means the New South Wales Government Minister responsible for Local Government.

Open voting means voting on the voices or by a show of hands or by a visible electronic voting system or similar means.

Performance Improvement Order means an order issued under section 438A of the Act.

Planning Decision means a decision made in the exercise of a function of Council under the Environmental Planning and Assessment Act 1979 (NSW) including a decision relating to:

- a) a development application;
- b) an environmental planning instrument;
- c) a development control plan; or
- d) a development contribution plan

but not including the making of an order under Division 9.3 of Part 9 of that Act.

Procedural Motion means a motion that is not a substantive motion of business before the Meeting.

Quorum means the minimum number of councillors or committee members necessary to conduct a meeting.

Regulation means the *Local Government (General) Regulation 2005*.

Webcast means an audio visual broadcast of a Meeting transmitted across the internet concurrently with the Meeting.

Workshop means an informal gathering to provide information to Councillors on issues. Workshops may involve Councillors, the CEO, CN staff and other invited persons. Only section 90 of the Code applies to Workshops.

Unless stated otherwise, a reference to a clause, section or Part is a reference to a clause, section or Part of the Code.

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Other related policies/ documents/ strategies	Code of Conduct Effective Communication between Councillors and Staff Policy Public Voice and Public Briefings Policy
Related forms	N/A
Required on website	Yes
Authorisations	N/A