

MEETING NOTICE

The **Extraordinary Council Meeting of
Bayside Council**
will be held in Council Chambers,
Rockdale Town Hall,
448 Princes Highway, Rockdale
on **Wednesday, 14 September 2016 at 7.00 pm**

For the transaction of the business listed below:

- 1 ACKNOWLEDGEMENT OF COUNTRY**
- 2 OPENING PRAYER**
- 3 DECLARATIONS OF INTEREST**
- 4 ADMINISTRATOR MINUTES**
 - 4.1 Introducing the new Bayside Council and recognising former Councillors
- 5 OFFICER REPORTS**
 - 5.1 Code of Meeting Practice
 - 5.2 Schedule of Council Meeting Dates and Venues
 - 5.3 Code of Conduct
 - 5.4 Delegations to the Interim General Manager
 - 5.5 Payment of Expenses and Facilities for Administrator
 - 5.6 Adoption of Membership of Local Representation Committee
 - 5.7 Minutes of the former City of Botany Bay Traffic Committee held 5 September 2016
 - 5.8 Formation of the Bayside Council Traffic Committee
 - 5.9 Joint Regional Planning Panel Representation
 - 5.10 Interim Senior Staff Structure



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Extraordinary Council Meeting**14/09/2016**

Item No	4.1
Subject	Introducing the new Bayside Council and recognising former Councillors
File	(R) F16/200

Administrator Minute 1

It is a privilege to welcome everyone in attendance tonight to this inaugural, Extraordinary Meeting of Bayside Council.

Tonight marks a significant milestone for local government in NSW and particularly within the areas of Bayside's boundaries.

Bayside Council was established by Proclamation on Friday 9 September 2016, merging the local government areas of the former City of Botany Bay and Rockdale City Councils to form this new council entity. The merger brings together two strong and vibrant communities encircling the beautiful features of Botany Bay and linking the vital economic gateways of Sydney International Airport and Port Botany.

With a population over 152,000 across an area of 50 square kms, existing town centres have a strong and diverse community spirit that is evident across the five new wards of Botany Bay, Bexley, Rockdale, Mascot and Port Botany.

I have been appointed to administer the new Council for the coming 12 months until it holds its first elections in September 2017 and will do so through an open and transparent decision making framework.

Supported by appropriate policies, procedures and practices, Bayside Council will build on community confidence through sound and transparent decisions that demonstrate community interests have been equally and fairly represented across the region.

These decisions will be the platform for developing trust and confidence within the community, as the new organisation creates a shared vision for both the Bayside community and the Council organisation itself.

I also take this opportunity tonight, to publicly acknowledge the service to the community and the contributions made by former City of Botany Bay and Rockdale City Councils Mayors, Councillors and staff. Through their hard work and dedication they have provided residents and ratepayers with excellent services and facilities.

This meeting acknowledges the contribution of the former elected representatives who diligently and faithfully served represented their communities and I admire and congratulate their dedication and commitment.

Formal arrangements are being made to suitably recognise the service of those former Councillors of City of Botany Bay and Rockdale City Councils for the 2012-2016 term.

From now to September 2017

In establishing Bayside Council, the NSW Government has communicated the following expectations:

- Administrators and interim General Managers will make decisions with future success in mind.
- There will be a balanced focus on business as usual, establishing the new Council, and delivering the benefits of reform while engaging communities.
- The next local government election will be held on 9 September 2017. There will be fifteen (15) Councillors elected from five (5) Wards and this elected Council will hold office until September 2020.

Council is required to report to the NSW Government on a monthly basis on its progress in establishing the new Council. It is important also that current performance levels can be measured against the organisation's performance in the future. With the absence of elected representatives for the next 12 months it is important that residents and ratepayers feel they can bring their requests and concerns to me and the Council.

I want to ensure the community feels engaged with the new Council and I will be available to meet with residents to discuss matters you wish to raise with me. The opportunity to speak at Council meetings will continue to be available from the first regular Council meeting in October 2016.

The Premier has announced that Councillors who have served on merged Councils will have the opportunity to participate on a newly established local committee aimed at providing community feedback and guiding the implementation of the new Council. Approaches are currently being made to former Councillors to ascertain their interest in joining me to make the new Council a success.

I am extremely honoured to be appointed to serve the community as Administrator of Bayside Council and I look forward to working with you.

Motion

1. That the Minute be received and noted.
2. That the dedication and contributions of Councillors and staff of the former City of Botany Bay and Rockdale City Councils be recorded and acknowledged.
3. That the service of the Councillors of the former City of Botany Bay and Rockdale City Councils in the 2012 to 2016 Term be suitably recognised.

Greg Wright
Administrator

Extraordinary Council Meeting

14/09/2016

Item No 5.1
Subject **Code of Meeting Practice**
Report by Evan Hutchings – Acting Manager Governance
 Liz Rog – Acting Manager Governance
File (R) F11/563

Summary

This report notes that the Proclamation of Bayside Council nominated the former Rockdale City Council's Code of Meeting Practice as Bayside Council's Code and recommends the endorsement of minor necessary amendments.

Officer Recommendation

1. That the variations to the Code of Meeting Practice be noted and the amended version attached to the report, be endorsed.
-

Background

The proclamation of Bayside Council on 9 September specified that the "The code of meeting practice of the former Rockdale City Council is to be the code of meeting practice of the new council until it is amended or replaced in accordance with the Local Government Act 1993."

While the attached Code of Meeting Practice is substantially the same document as the former Code of Rockdale City Council, it has been 're-badged' with the following minor updates:

- Meeting day: being the second Monday of each month (except January).
- Venue: to be either Rockdale Town Hall or Botany Town Hall as determined by Council and indicated in the Notices of Meeting.

These variations, which are indicated with track changes, are considered to be minimal and do not require public exhibition.

Financial Implications

Not applicable

Community Engagement

Not required

Code of Meeting Practice

DRAFT 14 September 2016



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Code of Meeting Practice

File: F11/563 Document: 16/110968

Class of document: Council Policy

Enquiries: Governance

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Part 1 – Preliminary

Title

This Code of Meeting Practice (**Code**) has been developed in accordance with the Local Government Act 1993 (**Act**), Local Government (General) Regulation 2005 (**Regulation**), ~~Division-Office~~ of Local Government's Meetings Practice Note No. 16, dated August 2009.

Objectives

This Code has the following objectives:

- 1 To ensure that Council and Committee Meetings are conducted expeditiously in an orderly, efficient and equitable manner.
- 2 To ensure that Council and Committee Meetings promote open government and maximise community access and participation.
- 3 To ensure that all meetings of Council and its Committees are conducted according to the principles of procedural fairness and due process.
- 4 To ensure that all Councillors have an equal opportunity to participate in the meeting to the fullest extent possible, with respect being accorded to the expression of differing views.
- 5 To ensure that proceedings are transparent and understandable to all persons participating in and observing meetings of Council and its Committees.
- 6 To ensure that Council Meetings restrict themselves to matters of policy, direction, resource allocation and statutory decisions.

Interpretation

This Code may be cited as the ~~Reckdale City~~ Council Code of Meeting Practice.

The Code shall be interpreted in a manner which is consistent with the Act, Regulations, and objectives of this Code.

Definitions

In this Code:

Advisory Committee, in relation to Council, means a Committee established under Clause 6.2 of the Code.

amendment, in relation to an original motion, means a motion moving an amendment to that motion. Amendments may be in the form of additional words to a motion and/or the removal of words from a motion. Any amendment to a motion must not alter the motion to the extent that it effectively reverses the motion. If more than one amendment has been moved against the motion subsequent amendments are Foreshadowed Amendments and

are only considered after the original amendment is defeated. Each amendment is separately considered and voted on.

Chairperson,

- a in relation to a meeting of the Council - means the person presiding at the meeting as provided by Clause 3.1 of this Code; and
- b in relation to a meeting of a Committee of a Council - means the person presiding at the meeting as provided by Clause 5.9 of this Code;

Committee in relation to a Council means a Committee established under Clause 5.2 or the Council when it has resolved itself into a Committee of the Whole;

Division-Office of Local Government means the Division-Office of Local Government, Department of Premier and Cabinet and its successors;

late Report means a report which is not listed on the published agenda for the meeting but is considered by the General Manager, in view of the importance or urgency of the issue, to be a report which must be submitted to the meeting of the Council, provided the statutory notice is given;

motion is a proposal put forwarded by a Councillor or Committee member calling for action to be taken or a decision to be made on a particular matter under consideration. A motion should be specific. If possible, it should be qualified by referring to a timetable, amounts of money involved, who is to take the necessary action and so on. It should be simple, clearly expressed and easy to understand so that there is no doubt as to its meaning. It should be well structured and if it involves a number of different aspects then there should be different parts to the motion or a series of separate motions. A motion needs to be seconded to become a motion for consideration at the meeting. Any amendments to a motion put forward by a Councillor need to be seconded but it cannot be accepted if it is a direct rebuttal of the motion it seeks to amend (see definition of amendment);

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

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

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

supplementary report means a report which adds to or amends a report which is included on the agenda for a meeting of Council;

task group means a group established under Clause 6.1 of the Code;

the Act means the Local Government Act 1993;

the Code means ~~the Rockdale City~~ Council's Code of Meeting Practice; and

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

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

Act and Regulation

- a This Code is made pursuant to Section 360(2) of the Act.
- b It incorporates relevant provisions of the Act and the Regulation.
- c In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.

Notes to text

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

General

1.1 Application of the Code - Conduct of Meetings of Council and Committees (Section 360 of the Act)

- 1.1.1 The regulations may make provision with respect to the conduct of meetings of Councils and Committees of Councils of which all the members are Councillors.
- 1.1.2 A Council may adopt a Code that incorporates the regulations made for the purposes of this section and supplement those regulations with provisions that are not inconsistent with them.
- 1.1.3 A Council and a Committee of Council of which all the members are Councillors must conduct its meetings in accordance with the Code adopted.

1.2 Preparation of the Code of Meeting Practice - Preparation, public notice and exhibition of draft Code (Section 361 of the Act)

- 1.2.1 Before adopting the Code, Council must prepare a draft.
- 1.2.2 The Council must give public notice of the Draft Code after it is prepared.
- 1.2.3 The period of public exhibition must be not less than 28 days.
- 1.2.4 The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to Council.
- 1.2.5 The Council must publicly exhibit the draft Code in accordance with this notice.

1.3 Adoption and Amendment of the Code - Adoption of Draft Code (Section 362 and Section 363 of the Act)

- 1.3.1 After considering all submissions received by it concerning the draft code, the Council may decide:
 - a To amend those provisions of its draft Code that supplement regulations made for the purposes of Section 360 of the Act; or
 - b Adopt the draft Code as its Code.
- 1.3.2 If the Council decides to amend its draft Code, it may publicly exhibit the amended draft in accordance with this Division, or, if the Council is of the opinion that the amendments are not substantial, it may adopt the amended draft Code without public exhibition as its Code.
- 1.3.3 A Council may amend a Code adopted under this Part by means only of a Code so adopted (Section 363 of the Act).

1.4 Revision of the Code

- 1.4.1 Changes to the Local Government Act and Regulations automatically change the Code. Automatic amendment of the Code by the Act and/or Regulation does not require public notification under Sections 361 to 363 of the Local Government Act 1993.
- 1.4.2 The Council authorises the General Manager to reissue the Code without public exhibition to incorporate any amendments to relevant Acts, Regulations or formal advices from the ~~Division Office~~ of Local Government. The General Manager shall cause Councillors to be informed of such amendments to the Code.

1.5 Availability of the Code (Section 364 of the Act) - Public Availability of the Code

- 1.5.1 The Code under this Division adopted by a Council must be available for public inspection free of charge at the office of the Council during ordinary working hours.
- 1.5.2 Copies of the Code must be available free of charge or, if the Council determines, on payment of the approved fee.
- 1.5.3 A copy of the Code will also be available on Council's website.

Part 2 – Before Council Meetings

2.1 Frequency of Meetings of the Council (Section 365 of the Act)

- 2.1.1 The Council is required to meet at least 10 times each year, each time in a different month.
- 2.1.2 The Council meets, ordinarily, on the ~~first and third~~second Wednesday of each month (except January) commencing at 7:00 pm in ~~either Rockdale the Council Town Hall, Chamber, Princes Highway, Rockdale, or the Botany Town Hall, corner Botany Road and Edward Street, Botany unless otherwise resolved by Council~~as determined by the Council and indicated in the Notices of Meeting.

2.2 Extraordinary Meetings of Council (Section 366 of the Act)

- 2.2.1 Notwithstanding Sub Clause 2.1.2, the Mayor may call Extraordinary Meetings of the Council on any matter or matters considered necessary.
- 2.2.2 If the Mayor receives a request in writing signed by at least two (2) Councillors, the Mayor must call an Extraordinary Meeting of the Council to be held as soon as practicable but in any event within 7 days after the receipt of the request.
- 2.2.3 If the Mayor refuses or delays to call an Extraordinary Meeting after receiving a request, signed by at least two (2) Councillors, those Councillors, may, in writing, request the General Manager to call the Extraordinary Meeting. The General Manager shall call the meeting as soon as practicable.

2.3 Notice of Meetings to Councillors (Section 367 of the Act)

- 2.3.1 The General Manager of the Council must send to each Councillor, at least three (3) days before each meeting of the Council, a notice specifying the time, date and place at which the meeting is to be held and the business proposed to be transacted at the meeting.
- 2.3.2 Notice of less than three (3) days may be given of an Extraordinary Meeting called in an emergency, but in no case shall notice of less than one day be given. [Note: Notice of meetings can be delivered by courier or by facsimile transmission].
- 2.3.3 A notice under this section and the agenda for, and the business paper relating to, the meeting will be given in either:
 - a Electronic form if all Councillors have such access, or
 - b Hard copy but allowing Councillors the option to be notified electronically.

2.4 Order of Business (Clause 239 of the Regulation)

- 2.4.1 At a meeting of the Council (other than an Extraordinary Meeting), the general order of business is (except as provided by the Regulations) as fixed by Council's Code of Meeting Practice or (if the Council does not have a Code of

Meeting Practice or its Code does not fix the general order of business) as fixed by resolution of Council.

2.4.12.4.2 The order of business for Ordinary Meetings is as follows:

- a Acknowledgement of traditional owners
- b Opening Prayer
- c Apologies
- d Confirmation of Minutes of Previous Meetings
- e Notification of Interests
- f Mayoral Minutes
- g Public Forum and associated business paper items
- h Rescission Motions
- i Notices of Motion
- j Officer Reports
 - ~~General Manager~~
 - ~~City Planning and Development~~
 - ~~City Operations~~
 - ~~Corporate and Community~~
- k Receipt of Minutes of Committees
- ~~l Reminders~~
- ~~m~~ Questions With Notice
- ~~n~~ Consideration of Business in Closed Session
- ~~o~~ ~~Call for Rescission Motions~~

2.4.22.4.3 Apart from those items on the business paper that members of the public have registered to speak on, the Mayor may bring forward an item of business from the business paper where it is established there is a strong community interest or that a member of the public with an interest in that item is present in the public gallery.

2.4.32.4.4 The order of business fixed under Sub-Clause 2.4.2 may be altered if a motion to that effect is carried. Such a motion can be moved without notice.

2.4.42.4.5 Despite Clause 3.23, only the mover of a motion referred to in Sub-Clause 2.4.4 may speak to the motion before it is put.

2.5 Giving Notice of Business (Clause 241 of the Regulation)

2.5.1 A Council must not transact business at a meeting of the Council:

2.5.1.1 unless a Councillor has given notice of the business in writing at least two (2) days prior to the day on which the business paper is prepared and delivered to Councillors; and

2.5.1.2 unless notice of the business has been sent to the Councillors in accordance with Section 367 of the Act. [Note: This is ordinarily the Wednesday prior to the meeting.]

2.5.2 Sub-Clause 2.5.1 does not apply to the consideration of business at a meeting if the business:

2.5.2.1 is already before, or directly relates to a matter that is already before, the Council; or

2.5.2.2 is the election of a Chairperson to preside at the meeting as provided by Clause 3.9; or

2.5.2.3 is a matter or topic put to the meeting by the Chairperson in accordance with Clause 2.6; or

2.5.2.4 is a motion for the adoption of recommendations of a Committee of the Council; or.

2.5.2.5 are reports from officers listed on the business paper which require additional information pursuant to a decision of a Committee or for other circumstances.

2.5.3 Despite Sub-Clause 2.5.1, 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:

2.5.3.1 a motion is passed to have the business transacted at the meeting; and

2.5.3.2 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.

2.5.4 Despite Clause 3.23, only the mover of a motion referred to in Sub Clause (3) can speak to the motion before it is put.

2.6 Mayoral Minutes (Clause 243 of the Regulation)

2.6.1 If the Mayor (or the Deputy Mayor, if acting for the Mayor) is the Chairperson at a meeting of a Council, the Chairperson is, by minute signed by the Chairperson, entitled to put to the meeting any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.

2.6.2 Such a minute, when put to the meeting, takes precedence over all business on the Council's agenda for the meeting. The Chairperson (but only if the Chairperson is the Mayor, or the Deputy Mayor, if acting for the Mayor) may move the adoption of the minute without the motion being seconded.

2.6.3 A recommendation made in a minute of the Chairperson (being the Mayor, or Deputy Mayor, if acting for the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council.

2.7 Agenda for Extraordinary Meeting (Clause 242 of the Regulation)

2.7.1 The General Manager must ensure that the business paper for an Extraordinary Meeting of the Council deals only with the matters stated in the notice of the meeting.

2.7.2 Despite Sub-Clause 2.7.1, business may be transacted at an Extraordinary Meeting of a Council even though due notice of the business has not be given to the Councillors. However, this can happen only if:

2.7.2.1 a motion is passed to have the business transacted at the meeting;
and

2.7.2.2 the business proposed to be brought forward is ruled by the
Chairperson to be of great urgency.

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

2.7.4 Despite Clause 3.23, only the mover of a motion referred to in Sub-Clause
2.7.3 can speak to the motion before it is put.

2.8 Notice of Motion- Lodgement

2.8.1 Notice of Motion serves two purposes:

2.8.1.1 It enables a Councillor to bring to the attention of the Council, matters
particularly of a policy nature, which may not otherwise be included in
the business of a Council Meeting.

2.8.1.2 It also provides opportunity for other Councillors to consider the form
and content of the motion before a matter is presented at the meeting.

2.8.2 A Notice of Motion must be submitted in writing to the General Manager or
their delegate no later than 12 noon on the Tuesday before the day on which
the business paper is delivered to the Councillors.

2.9 Public Notice of Meetings (Section 9(1) of the Act) (Clause 232 of the Regulation)

[Note: This clause prescribes the manner in which the requirements outlined in
Section 9(1) of the Act are to be complied with.]

2.9.1 A 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

2.9.2 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.

2.9.3 Notice of more than one meeting may be given in the same notice.

2.9.4 The Council and each Committee (of which all Councillors are members)
must have available to the public at its offices and each meeting, copies (for
inspection or take away by any person) of the agenda and the associated
business papers for the meeting.

2.9.5 In the case of a meeting where the 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:

2.9.5.1 the agenda for the meeting must indicate that the relevant item of
business is of such a nature (but not give details of that item): and

2.9.5.2 the requirements of Clause 2.9.4 with respect to the availability of business papers do not apply for that item of business.

2.9.6 The copies of the agenda and associated business paper are to be available to the public as soon as possible to the time they are available to Councillors.

2.9.7 The copies of the agenda and associated business paper are to be available free of charge.

2.9.8 A notice given under this clause or a copy of an agenda or of a business paper made available under this clause may in addition be given or made available in electronic form.

2.9.9 Public Notices of meetings will also be displayed on the website.

2.10 Application for Leave of Absence (Section 234 of the Act)

2.10.1 A Councillor applying for a leave of absence from the meeting of a Council does not need to make the application in person and the Council may grant such leave in the absence of that Councillor.

2.10.2 A Councillor's application for leave of absence from Council Meetings should, if practicable, identify (by date) the meetings from which the Councillor intends to be absent (Clause 235A(1) of the Regulation).

2.10.3 If the holder of a civic office attends a Council Meeting (whether or not an Ordinary Meeting) despite having been granted leave of absence, the leave of absence is taken to have been rescinded as regards any future Council Meeting.

2.10.4 This section does not prevent the Council from granting further leave of absence in respect of any future Council Meeting.

2.10.5 A Councillor who intends to attend a Council Meeting despite having been granted leave of absence should, if practicable, give the General Manager at least 2 days notice of his or her intention to attend, (Clause 235A(2) of the Regulation).

2.11 Agendas and Business Papers for Council Meetings (Clause 240 of the Regulation)

2.11.1 The General Manager must ensure that the business paper for a meeting of the Council states:

2.11.1.1 all matters to be dealt with arising out of the proceedings of former meetings of the Council; and

2.11.1.2 (if the Mayor is the Chairperson) - any business that the Chairperson may decide to put before the meeting without notice or the Deputy Mayor if acting for the Mayor; and

2.11.1.3 subject to Sub-Clause 2.11.2 any business of which due notice has been given.

- 2.11.2 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.
- 2.11.3 The General Manager must cause the agenda for a meeting of the Council or a Committee of Council to be prepared as soon as practicable before the meeting. [Note: The agenda is ordinarily delivered to Councillors on the Wednesday evening preceding the Wednesday meeting. The papers are available to the public on the Friday preceding the meeting.]
- 2.11.4 If, in the opinion of the General Manager, business to be transacted at a meeting of the Council is a kind of business referred to in Clause 3.7, the business may be included in a confidential business paper. All other business to be transacted at the meeting must be included in an ordinary business paper.
- 2.11.5 If a confidential business paper is prepared for a kind of business referred to in Clause 3.7, the business must be referred to in the ordinary business paper prepared for the same meeting.
- 2.11.6 Nothing in this clause limits the powers of the Chairperson under Clause 243 of the Regulation.

2.12 Supplementary or Late Reports

- 2.12.1 As circumstances necessitate, supplementary or late reports may be tabled at an Ordinary Meeting.
- 2.12.2 In the case of a supplementary report, where the report is distributed at or just prior to the Meeting, a period of time (to be determined by the Chairperson) shall be allowed for Councillors to read the report.
- 2.12.3 Supplementary and/or late reports are to be forwarded to Councillors as far as possible prior to the Meeting and via email as well as facsimile.
- 2.12.4 Notwithstanding this clause, the requirements of Clause 2.3 concerning notice of meetings to Councillors must be met for late reports except minutes by the Mayor.

Part 3 – Procedure for the conduct of council meetings

3.1 Quorum and Attendance

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.

3.2 Councillor Presence at Council Meetings (Clause 235 of the Regulation)

3.2.1 A Councillor cannot participate in a meeting of Council unless personally present at the meeting.

3.2.2 A Councillor shall not be deemed to be present at any meeting of the Council, unless they are within the Council Chamber. For the purposes of this requirement, the Council Chamber foyer is not regarded as being in the Council Chamber.

3.2.3 However, for the sake of clarity, a Councillor declaring an interest in a matter and leaving the Chamber shall not remain in either the public gallery or any part of the foyer within view of the meeting.

3.3 What Happens When a Quorum is Not Present (Clause 233 of the Regulation)

3.3.1 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.

3.3.2 In the case of 3.3.1, 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

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

3.4 Councillor Attendance at Council Meetings (Section 234 of the Act)

A civic office becomes vacant if the holder (Councillor) is absent from 3 consecutive Ordinary Meetings of the Council (unless the holder is absent because he or she has been suspended from office under Section 482 of the Act) without:

- a prior leave of the Council, or

- b leave granted by the Council at any of the meetings concerned.

3.5 Councillor Departure from Meeting

Councillors are required, on proposing to retire from a meeting of Council for the remainder of that meeting, to give prior notice of intended departure to the Chairperson.

3.6 Who is entitled to attend Council Meetings (Section 10 of the Act)

3.6.1 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.

3.6.2 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 Council;
- b by the person presiding at the meeting if the Council has, by resolution, authorised the person presiding to exercise the power of expulsion.

3.6.3 A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.

3.7 Attendance of General Manager (Section 376 of the Act)

3.7.1 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.

3.7.2 The General Manager is entitled to attend a meeting of any other Committee of the Council, and may if a member of the Committee exercises a vote.

3.7.3 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.

3.8 Attendance of Council Employees

The General Manager shall arrange for the attendance of such Council employees as are considered necessary by the General Manager for the transaction of the notified Council business.

3.9 Chairperson of Council Meetings (Section 369 of the Act) (Clause 236 of the Regulation)

- 3.9.1 The Mayor, or at the request of or in the absence of the Mayor, the Deputy Mayor, presides at meetings of the Council.
- 3.9.2 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.
- 3.9.3 If no Chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a Chairperson to preside at the meeting.
- 3.9.4 The election must be conducted:
- 3.9.4.1 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
 - 3.9.4.2 if neither of them is present at the meeting or there is no General Manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.
- 3.9.5 If, at an election of a Chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the Chairperson is to be the candidate whose name is chosen by lot.
- 3.9.6 For the purposes of Clause 3.9.5, the person conducting the election must:-
- 3.9.6.1 arrange for the names of the candidates who have equal numbers of votes to be written on similar slips; and
 - 3.9.6.2 then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 3.9.7 The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.

3.10 Chairperson to Have Precedence (Clause 237 of the Regulation)

When the Chairperson rises or speaks during a meeting of the Council:

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

3.11 Chairperson's Duty with Respect to Motions (Clause 238 of the Regulation)

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

3.12 Recognition of Chairperson

- 3.12.1 In addressing Council, Councillors and other persons addressing the Council shall at all times speak through the Chairperson.
- 3.12.2 Councillors and other persons addressing the Council shall at all times show appropriate respect and observe the ruling of the Chairperson.
- 3.12.3 A Councillor, despite the clauses immediately above, may, through a motion of dissent, challenge a ruling from the Chairperson.

3.13 Mode of Address

Councillors shall at all times address other Councillors by their official designation, as Mayor or Councillor, as the case may be; and with the exception of the Chairperson, or any Councillor prevented by physical infirmity, shall stand when speaking.

3.14 Report of an Division-Office of Local Government's Representative to be Tabled at Council Meeting (Clause 244 of the Regulation)

When a report of a Departmental representative has been presented to a meeting of Council in accordance with Section 433 of the Act, the Council must ensure that the report:

- a is laid on the table at that meeting; and
- b is subsequently available for the information of Councillors, General Manager and members of the public at all reasonable times.

3.15 Notice of Motion - Absence of Mover (Clause 245 of the Regulation)

In the absence of a Councillor who has placed a Notice of Motion on the agenda for a meeting of the Council:

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

3.16 Motions to be Seconded (Clause 246 of the Regulation)

- 3.16.1 A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the Chairperson to speak for five (5) minutes to the motion before calling for the motion to be seconded. (Note: seconder is not required to speak).
- 3.16.2 The seconder of a motion or of an amendment may reserve the right to speak for five (5) minutes later in the debate.

3.17 How Subsequent Amendments May be Moved (Clause 247 of the Regulation)

- 3.17.1 A Councillor who does not agree with the motion, or agrees in part, may move an amendment after the motion has been seconded. (Note: Amendments cannot be accepted if they are a direct rebuttal of the motion they seek to amend).

- 3.17.2 If an amendment has been accepted or rejected, a further amendment can be moved to the motion in its original or amended form (as the case may be), and so on, but no more than one motion and one proposed amendment can be before the Council at any one time.
- 3.17.3 It is permissible to debate the motion and an amendment concurrently.
- 3.17.4 It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such Foreshadowed Amendment shall not be moved and debated until the amendment is dealt with.
- 3.17.5 If a Councillor who moves a motion thinks that an amendment moved later is an improvement on the motion, the Councillor may withdraw the motion in favour of the amendment, provided the seconder agrees. Alternatively, the mover and seconder of the original motion may agree to incorporate in the motion, points raised in the amendment. On this basis the amendment would be withdrawn.

3.18 Procedural Motions

- 3.18.1 Procedural Motions are used for dealing with the Order of Business of the meetings. A Procedural Motion may be moved at any time and must be dealt with immediately by the Chairperson. A Procedural Motion requires a seconder and cannot be moved by the Chairperson.
- 3.18.2 Procedural Motions can seek to:
- a Bring forward an item of business
 - b Withdraw an item
 - c Defer an item of business to later in the meeting
 - d Adjourn the meeting
 - e Reconvene the meeting

3.19 Motions of Dissent (Clause 248 of the Regulation)

- 3.19.1 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. A Motion of Dissent does not require a seconder.
- 3.19.2 If a Motion of Dissent is carried, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 3.19.3 Despite Clause 3.23, 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.

3.20 Petitions May be Presented to the Council

- 3.20.1 A Councillor may present a petition to the Council.

- 3.20.2 The Chairperson must not permit discussion on the petition, unless it relates to an item on the business paper. Petitions shall be referred to the General Manager for report, reply or other appropriate action.

3.21 Tabled Documents

- 3.21.1 Other than those documents referred to in Clause 3.20, documents (including correspondence) are not to be tabled during a meeting, either by a Councillor or a member of the public, in relation to a matter before that meeting except in exceptional circumstances and then only with the leave of the Chairperson whose decision will be final on the matter.
- 3.21.2 In the event that a Councillor or member of the public wishes to table a document during a meeting, that document must be given to the General Manager or nominee by 4.00 pm on the day of the meeting.
- 3.21.3 Any other documents that a Councillor or a member of the public wishes to submit to Council should be forwarded to the General Manager in the normal manner.

3.22 Questions May be Put to Councillors and Council Employees concerning matters on the Council Business Paper (Clause 249 of the Regulation)

[Note: For questions about matters not on the Business Paper Councillors should lodge a Question With Notice]

- 3.22.1 A Councillor:
- a may, through the Chairperson, put a question to another Councillor; and
 - b may, through the Chairperson and the General Manager, put a question to a Council employee.
- 3.22.2 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.
- 3.22.3 Any such question must be put directly, succinctly, and without argument. Councillors may draw the Mayor's attention to the relevance of the questions.
- 3.22.4 The General Manager may exercise the option to take on notice a question under this clause.
- 3.22.5 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.
- 3.22.6 Nothing in this clause prevents a Councillor putting a question which is similar or related to a question put earlier at the same meeting.

3.23 Limitation as to Number of Speeches (Clause 250 of the Regulation)

- 3.23.1 A Councillor who, during debate at a meeting of the Council, moves an original motion has the right of general reply to all observations that are made

by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.

- 3.23.2 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.
- 3.23.3 A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than five (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 five (5) minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 3.23.4 Despite Clauses 3.23.1 and 3.23.2, if at least two (2) Councillors have spoken in favour of a motion or an amendment and at least two (2) Councillors have spoken against the motion or amendment, any Councillor may move that the matter be now put. A Councillor may also move that the matter be now put if the mover of a motion or amendment has spoken in favour of the motion or amendment and no Councillor indicates to speak against it.
- 3.23.5 The Chairperson must immediately put to the vote a motion that the matter be now put and without debate.
- 3.23.6 If a motion that the matter be now put is passed, the Chairperson must, after the mover of the motion has exercised his or her right of reply under Clause 3.23.1, immediately put the question to the vote without further debate.
- 3.23.7 If a motion that the matter be now put is rejected, the Chairperson must resume the debate on the original motion or amendment.

3.24 Motions Put Without Debate

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

3.25 Voting at Council Meetings (Section 370 of the Act)

- 3.25.1 Each Councillor is entitled to one vote.
- 3.25.2 The Chairperson has, in the event of an equality of votes, a second or casting vote and that vote shall be used at the absolute discretion of the Chairperson. Should the Chairperson fail to exercise a casting vote the motion will be lost.
- 3.25.3 A Councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion. This sub clause does not apply to a Councillor who does not vote because he or she has a pecuniary interest in the subject matter of the motion.
- 3.25.4 If a Councillor who has voted against a motion put at a Council Meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the minutes.

3.25.5 The decision of the Chairperson as to the result of a vote is final, unless:

- a in the case where a vote has been declared on the voices, a Councillor immediately requests a show of hands; or
- b the decision is immediately challenged and not fewer than two (2) Councillors rise and demand a division.

3.25.6 When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately.

3.25.7 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 minutes. Divisions can be taken on both amendments and motions.

3.25.8 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.

Note: The Local Government (General) Regulation 2005 provides that a Council is to resolve whether an election by the Councillors for Mayor or Deputy Mayor is to be by preferential ballot, ordinary ballot or open voting (Clause 394 of the Regulation and Clause 3 of Schedule 7 of the Regulation). Clause 3 of Schedule 7 also makes it clear that "ballot" has its normal meaning of secret ballot.

3.26 Recording of Voting on Planning Matters (Section 375A of the Act)

3.26.1 In this Section, Planning Decision means a decision made in the exercise of a function of a Council under the Environmental Planning and Assessment Act 1979:

- a including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution under that Act; but
- b not including the making of an order under Division 2A of Part 6 of that Act.

3.26.2 The General Manager is required to keep a register containing, for each planning decision made at a meeting of Council or a Council Committee, the names of the Councillors who supported the decision and the names of any Councillors who opposed (or who are taken to have opposed) the decision.

3.26.3 For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the Council or a Council Committee.

3.26.4 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document and is to include the information required by the regulations.

3.26.5 This section extends to a meeting that is closed to the public.

3.27 Which Parts of a Meeting Can Be Closed to the Public?

3.27.1 A Council, or a Committee of the Council of which all the members are Councillors, may close to the public so much of its meeting as comprises:

- a the discussion of any of the matters listed in Clause 3.27.2; or
- b the receipt or discussion of any of the information so listed.

3.27.2 The matters and information are the following:

- a personnel matters concerning particular individuals (other than Councillors);
- b the personal hardship of any resident or ratepayer;
- c information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business;
- d commercial information of a confidential nature that would, if disclosed:
 - i prejudice the commercial position of the person who supplied it; or
 - ii confer a commercial advantage on a competitor of the Council; or
 - iii reveal a trade secret;
- e information that would, if disclosed, prejudice the maintenance of law;
- f matters affecting the security of the Council, Councillors, Council staff or Council property;
- g advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege; and
- h information concerning the nature and location of a place or an item of Aboriginal significance on community land.

3.27.3 A Council, or a Committee of the Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

3.27.4 A 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 (see clause 3.31).

3.28 Further Limitations Relating to Closure of Parts of Meetings to Public (Section 10B of the Act)

- 3.28.1 A meeting is not to remain closed during the discussion of anything referred to in Section 10A(2) of the Act (see Sub Clause 3.27.2):
- a except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security; and
 - b if the matter concerned is a matter other than a personal 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.
- 3.28.2 A meeting is not to be closed during the receipt and consideration of information or advice referred to in Section 10(2)(g) of the Act (see Sub Clause 3.27.2g) unless the advice concerns legal matters that:
- a are substantial issues relating to a matter in which the Council or Committee is involved; and
 - b are clearly identified in the advice; and
 - c are fully discussed in that advice.
- 3.28.3 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 Section 10A(3) of the Act (see Clause 3.27), the consideration of the motion must not include any consideration of the matter or information to be discussed in that part of the meeting (other than consideration of whether the matter concerned is a matter referred to in Section 10A(2) of the Act (see Clause 3.27).
- 3.28.4 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:
- a a person may misinterpret or misunderstand the discussion; or
 - b the discussion of the matter may:
 - i cause embarrassment to the Council or Committee concerned, or to Councillors or to employees of the Council; or
 - ii cause a loss of confidence in the Council or Committee.
- 3.28.5 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.

3.29 Notice of Likelihood of Closure Not Required in Urgent Cases (Section 10C of the Act)

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 Section 10A(2) of the Act (see Clause 3.27); and
- b the Council or Committee, after considering any representations made under Section 10A(4) of the Act (see Clause 3.31), 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.

3.30 Grounds for Closing Part of Meeting to be Specified (Section 10D of the Act)

3.30.1 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.

3.30.2 The grounds must specify the following:

- a the relevant provision of Section 10A(2) of the Act (see Sub Clause 3.27.2);
- b the matter that is to be discussed during the closed part of the meeting; and
- c the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

3.31 Representation by Members of the Public - Closure of Part of Meeting (Clause 252 and 264 of the Regulation)

[Note: For public participation in the Public Forum see Section 8].

3.31.1 To ensure adherence with Council's objective that proceedings should be transparent and understandable to all persons participating in and observing meetings of Council the following process will occur:

- 3.31.1.1 After a motion to close part of the Council Meeting to the public has been moved or seconded, the Chairperson will ask the General Manager (or his/her representative) if there are any written representations from the public on the proposed closure.

- 3.31.1.2 The General Manager (or his/her representative) will read out any written representation.
- 3.31.1.3 The Chairperson will ask if any persons present wish to make verbal representations.
- 3.31.1.4 The opportunity to speak will be given to each person present to make verbal representations.
- 3.31.1.5 The opportunity to speak will be given to each person or representative person chosen by the public gallery on a “for” or “against” basis.
- 3.31.1.6 Each person addressing the Council will be allowed a maximum time of five (5) minutes.
- 3.31.1.7 After receiving all presentations on this matter and on a motion moved, seconded and carried that the meeting be closed under Section 10A(3) of the Act, the meeting should be closed to consider the matter in closed session.
- 3.31.1.8 The determination of the resolution in Sub Clause 3.31.7.7 will be announced by the Chairperson.
- 3.31.1.9 The grounds on which a meeting is closed must be specified in the decision to close the meeting and recorded in the minutes of the meeting.
- 3.31.1.10 A person (whether a Councillor or another person) is not entitled to be present at a meeting if expelled from the meeting by a resolution of the meeting.
- 3.31.1.11 Nothing in this clause prevents any limitation being placed on the number of members of the public admitted to a meeting of the Council or a Committee of the Council, provided such limitation is for reason of safety or security.

3.32 Resolutions Passed at Closed Meetings to be Made Public (Clause 253 of the Regulation)

If a Council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the Chairperson will make the resolution public as soon as practicable after the closed part of the meeting has ended.

3.33 What constitutes a decision of the Council (Section 371 of the Act)

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.

3.34 Rescinding or Altering Resolutions (Section 372 of the Act)

- 3.34.1 A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with the regulations made under Section 360 and, if applicable, this Code of Meeting Practice.

- 3.34.2 If notice of motion to alter or 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 has been dealt with, except that, in the case of a motion of alteration, this sub section only applies to the extent that the resolution of Council would be affected by the motion of alteration, if it is carried.
- 3.34.3 If notice of motion to alter or rescind a resolution is given prior to the resolution having been carried into effect, then the resolution must not be carried into effect until after the motion has been dealt with, except that, in the case of a motion of alteration, this sub section only applies to the extent that the resolution of Council would be affected by the motion of alteration, if it is carried.
- 3.34.4 If a motion has been negated by the Council, a motion having the same effect must not be considered unless notice of it has duly been given in accordance with Council's Code of Meeting Practice.
- 3.34.5 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council, must be signed by a least three (3) Councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- 3.34.6 If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within three (3) months. This sub clause may not be evaded by substituting a motion differently worded, but in principle the same.
- 3.34.7 A motion to which this clause applies may be moved on the report of a Committee of the Council and any such report must be recorded in the minutes.
- 3.34.8 The provisions of this clause concerning negated motions do not apply to motions of adjournment.
- 3.34.9 All motions to rescind or alter a resolution received in accordance with this clause will be included in the agenda of the next available meeting of Council.
- 3.34.10 If it is proposed to move a further motion in the event that a motion to rescind a resolution is carried, the required notice must be given of the proposed further motion.
- 3.34.11 A proforma for a Notice of Motion to alter or rescind a resolution is included in the Appendix.

3.35 Motions of Adjournment

- 3.35.1 Debate shall not be permitted on any motion for adjournment of a meeting of the Council.
- 3.35.2 If a motion for adjournment is negated, the business of the meeting shall proceed, and it shall not be in order for any Councillor to again move a motion

for adjournment within half an hour of the previous motion for adjournment being negatived.

- 3.35.3 A motion for adjournment may specify the time, date and place of the adjourned meeting; however, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the Chairperson shall make a determination with respect to whichever of these has not been specified.

3.36 Adjournment of Council Meetings

Notwithstanding Clause 3.35 no meeting shall be permitted to continue beyond 11.00 pm without approval of a majority of the Councillors who are present and eligible to vote. A new time limit must be established before taking a vote to extend the meeting. Any further extension must also be approved by the majority of the Councillors who are present and eligible to vote.

Part 4 – Keeping order at meetings

Councillors, employees of Council and other persons at the meeting are required to observe the Code of Meeting Practice at all meetings of the Council. Failure on the part of a Councillor or an employee to observe the Code of Meeting Practice may be subject to a complaint under the Code of Conduct.

4.1 Questions of Order (Clause 255 of the Regulation)

- 4.1.1 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.
- 4.1.2 A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson by raising a “point of order” regarding the matter. A point of order does not require a seconder.
- 4.1.3 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.
- 4.1.4 The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

4.2 Acts of Disorder (Clause 256 of the Regulation)

- 4.2.1 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, any regulation in force under the Act or this Code; or
 - b assaults or threatens to assault another Councillor or person present at the meeting; or
 - c moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or Committee, or addresses or attempts to address the Council or Committee on such a motion, amendment or matter; or
 - d insults or 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; or
 - f reads at length from any correspondence, report or other document without the leave of the Council.
- 4.2.2 The Chairperson may require a Councillor:-
 - a to apologise for an act of disorder referred to in Clause 4.2.1(a) or (b); or

- b to withdraw a motion or an amendment referred to in Clause 4.2.1(c) and, where appropriate, to apologise without reservation; or
- c to retract and apologise for an act of disorder referred to in Clause 4.2.1(d) or (e); or
- d to refrain from any further reading and apologise for the act of disorder in Clause 4.2.1(f).

4.2.3 The Council or Committee of the Council may, by resolution, expel from a meeting a Councillor who fails to comply with a requirement made under Clause 4.2.2. The expulsion of a Councillor under this sub clause 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 of the Regulation)

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

4.3.2 The Council or Committee may, as provided by Section 10(2)(a) or (b) of the Act, by resolution, expel a member of the public from a Council or Committee meeting on the ground that the member is engaging in or has, at the meeting, engaged in disorderly conduct.

4.4 Power to Remove Persons from Meeting after Expulsion Resolution (Clause 258 of the Regulation)

If a Councillor or a member of the public fails to leave the place where a meeting of a Council or Committee 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.

4.5 Relevance in Debate

4.5.1 Councillors, in the course of debate, should not introduce material that is irrelevant to the item under discussion. If a Councillor is called to order for a second time in a single speech for introducing irrelevant material, he or she shall immediately cease speaking and resume his or her seat.

- 4.5.2 Members of the public who address Council also have an obligation to ensure relevance to the item under discussion. The Chairperson has the discretion, including action similar to Sub Clause 4.5.1, to deal with members of the public who introduce irrelevant material.

Part 5 – Council Committees

5.1 Committee of the Whole (Section 373 of the Act and Clause 259 of the Regulation)

- 5.1.1 The Council may resolve itself into a Committee of the Whole to consider any matter before the Council.
- 5.1.2 All the provisions of this Code relating to meetings of the Council, so far as they are applicable, extend to and govern the proceedings of a Committee of the Whole, except the provisions:
 - a limiting the number and duration of speeches; and
 - b requiring Councillors to stand when speaking .
- 5.1.3 The General Manager is responsible for reporting to the Council proceedings in a Committee of the Whole. It is not necessary to report the proceedings in full but any recommendations of the Committee must be reported.
- 5.1.4 The Council must ensure that a report of the proceedings is recorded in the Council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed.

5.2 Council may establish Committees (Clause 260 of the Regulation)

- 5.2.1 The Council may, by resolution, establish such Committees as it considers necessary.
- 5.2.2 A Committee is to consist of the Mayor and such other Councillors as are elected by the Councillors or appointed by the Council.
- 5.2.3 The quorum for a meeting of a Committee is to be:-
 - a such number of members as the Council decides, or
 - b if the Council has not decided a number - a majority of the members of the Committee.
- 5.2.4 if a Committee lacks a quorum, another Councillor may be seconded to the Committee to achieve a quorum and that seconded member will have full voting rights.

5.3 Functions of Committees (Clause 261 of the Regulation)

The Council must specify the functions of each of its Committees when the Committee is established but may from time to time amend those functions.

5.4 Notice of Committee Meetings to be Given (Clause 262 of the Regulation)

- 5.4.1 The General Manager of the Council must send to each Councillor, at least three (3) 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.
- 5.4.2 However, notice of less than three (3) days may be given of a Committee meeting called in an emergency.
- 5.4.3 The provisions of Sub Clause 2.3.3 apply to the agenda of Committee Meetings in the same manner as they apply to the agenda of Meetings of the Council

5.5 Non-members Entitled to Attend Committee Meetings (Clause 263 of the Regulation)

- 5.5.1 A Councillor who is not a member of a Committee of the Council is entitled to attend, and to speak at, a meeting of the Committee.
- 5.5.2 Except as provided by Clause 5.2.4, a Councillor is not entitled:
- a to give notice of business for inclusion in the business paper for the meeting, or
 - b to move or second a motion at the meeting, or
 - c to vote at the meeting.

5.6 Representations by the Members of the Public - Closure of Part of Meeting (Clauses 252 and 264 of the Regulation)

The same process will be undertaken for Committees as detailed under Clause 3.27 for Council Meetings.

5.7 Procedure in Committees (Clause 265)

- 5.7.1 Subject to Sub Clause 5.7.3 each Committee of the Council may regulate its own procedure.
- 5.7.2 Without limiting Sub Clause 5.7.1, a Committee of the Council may decide that, whenever the voting on a motion put to a meeting of the Committee is equal, the Chairperson of the Committee is to have a casting vote as well as an original vote. (Note: the Council's current adopted policy on Committee functions does not provide for a casting vote in Council Committees.)
- 5.7.3 Voting at a Committee Meeting is to be by open means (such as on the voices or by show of hands).

5.8 Committee to Keep Minutes (Clause 266 of the Regulation)

5.8.1 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 All Committee Minutes are to be submitted to the next available meeting of Council.

5.8.2 As soon as the Minutes of an earlier meeting of a Committee of the Council have been confirmed at a later meeting of the Committee, the person presiding at the later meeting must sign the Minutes of the earlier meeting.

5.9 Chairperson and Deputy Chairperson of Committee (Clause 267 of the Regulation)

5.9.1 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.

5.9.2 A 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.

5.9.3 If neither the Chairperson nor the Deputy Chairperson of a Committee of a Council is unable or unwilling to preside at a meeting of the Committee, the Committee must elect a member of the Committee to be Acting Chairperson of the Committee.

5.9.4 The Chairperson is to preside at a meeting of a Committee of a Council. If the Chairperson is unable or unwilling to preside, the Deputy Chairperson (if any) is to preside at the meeting, but if either the Chairperson or the Deputy Chairperson is unable or unwilling to preside, the Acting Chairperson is to preside at the meeting.

5.9.5 The Mayor is, by virtue of holding that office, a member of each Committee of the Council. (Clause 260 of the Regulation).

5.10 Absence from Committee Meetings (Clause 268 of the Regulation)

5.10.1 A member ceases to be a member of a Committee if the member (other than the Mayor):-

- a has been absent from three (3) consecutive meetings of the Committee without having given reasons acceptable to the Committee for the member's absences; or
- b has been absent from at least half of the meetings of the Committee held during the immediately preceding year without having given to the Committee acceptable reasons for the member's absences.

5.10.2 Sub Clause 5.10.1 does not apply if all of 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. See the dictionary to the Act.]

5.11 Reports of Committees (Clause 269 of the Regulation)

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

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

5.11.3 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 practicable after the meeting or part of the meeting has ended; and
- b report the resolution or recommendation to the next available meeting of the Council.

5.12 Disorder in Committee Meetings (Clause 270 of the Regulation)

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

5.13 Committee May Expel Certain Persons from its Meetings (Clause 271 of the Regulation)

5.13.1 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, the Committee may, by resolution, expel from the place where the meeting is being held any person who is not a Councillor.

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

Part 6 – Task Groups and Advisory Committees

6.1 Task Groups

- 6.1.1 The Council may appoint a group of Councillors and staff members to investigate a specific proposal and to report to the Council or appropriate Committee.
- 6.1.2 The Council shall determine the terms of reference for the Task Group, such to clearly state:
 - a the specific issues to be addressed
 - b the time available to the Task Group to complete its investigation
- 6.1.3 The Task Group shall have the power to regulate its own procedures and need only report to the Council or Committee when a decision on policy or resources is required.
- 6.1.4 Notwithstanding 6.1.3.3 the minutes of Task Groups shall be reported to Council for notation.
- 6.1.5 The Task Group shall be disbanded after the terms of reference have been completed. [Note: The General Manager appoints staff member representatives on Task Groups.]

6.2 Advisory Committees

- 6.2.1 The Council may appoint a group of Councillors, staff and on occasions community representatives to undertake a particular administrative responsibility.
- 6.2.2 Where possible, community representatives on Advisory Committees shall be nominated by community organisations.
- 6.2.3 The Council shall determine the terms of reference for the Advisory Committee.
- 6.2.4 The Advisory Committee shall have power to regulate its own procedures, subject to:-
 - a the Chairperson of the Advisory Committee being the Mayor of the Council;
 - b minutes of meetings being submitted to the next available meeting of the Council.
- 6.2.5 The Advisory Committees term of reference shall not be time limited but the Council can disband the Advisory Committee or alter its terms of reference and membership composition at any time.

Part 7 – Dealing with conflicts of interests

Note: The General Manager cannot give a ruling on whether a Councillor has a pecuniary or non-pecuniary interest in a particular matter. If Councillors are in doubt they should seek their own legal advice.

4 Pecuniary Interests

7.1 Pecuniary interest (Section 442 of the Act)

- 7.1.1 For the purposes of this Part, a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.
- 7.1.2 A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the Act.

7.2 Persons who have a Pecuniary Interest

- 7.2.1 For the purposes of the Part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
 - a the person; or
 - b another person with whom the person is associated.
- 7.2.2 A person is taken to have a pecuniary interest in a matter if:
 - a the person's spouse or de facto partner or a relative of the person has a pecuniary interest in the matter; or
 - b the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.
- 7.2.3 However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (2):
 - a if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body; or
 - b just because the person is a member of, or employed by, a Council or a statutory body or is employed by the Crown; or
 - c just because the person is a member of, or a delegate of a Council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

7.3 Interests that Need Not be Declared (Section 443 of the Act)

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

7.3.1.1 An interest as an elector.

7.3.1.2 An interest as a ratepayer or a person liable to pay a charge.

7.3.1.3 An interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public or a section of the public that includes persons who are not subject to this Part.

7.3.1.4 An interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part.

7.3.1.5 An interest as a member of a club or other organisation or association, unless the interest is as a holder of an office in the club or organisation (whether remunerated or not).

7.3.1.6 An interest of a member of a Council Committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the Committee member has been appointed to represent the organisation or group on the Committee.

7.3.1.7 An interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument, other than an instrument that effects a change of permissible uses of:

a land in which the person or a person, company or body referred to in Section 443(1)(b) or (c) has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise); or

b land adjoining, or adjacent to, or in proximity to land referred to in paragraph (a);

if the person or the other person with whom the person is associated would by reason of the propriety interest have a pecuniary interest in the proposal.

7.3.1.8 An interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights of the company.

- 7.3.1.9 An interest of a person arising from the proposed making by the Council of an agreement between the Council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a Director) of the corporation or is a member (but not a member of the Committee) of the association or is a partner of the partnership.
- 7.3.1.10 An interest of a person arising from the making by the Council of a contract or agreement with a relative of the person for or in relation of any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area:
- a the performance by the Council at the expense of the relative of any work or service in connection with roads or sanitation;
 - b security for damage to footpaths or roads;
 - c any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council or by or under any contract.
- 7.3.1.11 An interest relating to the payment of fees to Councillors (including the Mayor and Deputy Mayor).
- 7.3.1.12 An interest relating to the payment of expenses and the provision of facilities to Councillors (including the Mayor and Deputy Mayor) in accordance with a policy under Section 252 of the Act.
- 7.3.1.13 An interest relating to the election to the office of Mayor arising from the fact that a fee for the following 12 months has been determined for the office of Mayor.
- 7.3.1.14 An interest of a person arising from the passing of payment of a regular account for wages and salary of an employee who is a relative of the person.
- 7.3.1.15 An interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor or member of a Council Committee.
- 7.3.1.16 An interest arising from appointment of a Councillor to a body as representative or delegate of the Council, whether or not a fee or other recompense is payable to the representative or delegate.

7.4 Disclosure and Participation in Meetings (Section 451 of the Act)

- 7.4.1 A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and is present at a meeting of the Council or Committee at which the matter is being considered must disclose the interest to the meeting as soon as practicable. [Note: One

of the first items on each Council and Committee Meeting Agenda is Notification of Interests].

- 7.4.2 The disclosure ideally should be in writing and describe the nature and extent of the pecuniary interest. [Note: A proforma declaration is provided in Attachment 1 in order to facilitate declarations.]
- 7.4.3 The Councillor or member must not take part in the consideration or discussion of the matter.
- 7.4.4 The Councillor or member must not be present at, or in sight of, or within earshot of the meeting of the Council or Committee:
 - a at any time during which the matter is being considered or discussed by the Council or Committee, or:
 - b at any time during which the Council or Committee is voting on any question in relation to the matter.
- 7.4.5 The exclusion is from all discussions on the matter, not just discussions on a formulation motion or a resolution of the matter.
- 7.4.6 Councillors barred from taking part in a discussion because of a pecuniary interest cannot escape this by addressing the meeting as a “resident” or “ratepayer”.

7.5 Disclosure by Advisers (Section 456 of the Act).

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.

7.6 Circumstances where Disclosure Rules are not breached (Section 457 of the Act)

A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

7.7 Disclosures to be Recorded (Section 453 of the Act)

A disclosure made at a meeting of the Council or Council Committee must be recorded in the minutes of the meeting. [Note: A register of declared interests is held by the Council's Public Officer]

7.8 Powers of the Council in Relation to Meetings (Section 10 of the Act)

A Councillor or member of a Council Committee must not, if the Council or Committee so resolves, attend a meeting of the Council or Committee while it has under consideration a matter in which the Councillor or member has an interest required to be disclosed under this Part.

7.9 ~~Division-Office~~ of Local Government - Power of Minister in relation to meetings (Section 458 of the Act)

The Minister may, conditionally or unconditionally, allow a Councillor or a member of a Council Committee who has a pecuniary interest in a matter with which the Council is concerned and who is present at the meeting of the Council Committee to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- a that the numbers of Councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business; or
- b that it is in the interests of the electors for the area to do so.

5 Non-Pecuniary Interests

7.10 Special duty of a Councillor, member of staff and delegate

A Councillor, member of staff or delegate must avoid and appropriately resolve any conflict or incompatibility between his or her private or personal interests and the impartial performance of his or public or professional duties.

7.11 Non-Pecuniary Interest

For the purposes of this Part, non-pecuniary private or personal interests that the Council official has, that do not amount to a pecuniary interest as defined in the Act, 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.

7.12 Conflict of Interest

7.12.1 A conflict of interest arises if it is likely that the person with the private or personal interest could be prejudicially influenced in the performance of his or her public or professional duties by that interest, or that a reasonable person would believe that the person could be so influenced.

7.12.2 A non-pecuniary conflict of interest need not mean automatic or complete exclusion from participation in discussion or decision making and a determination of how the non-pecuniary conflict of interest is to be dealt with is to be made in accordance with Council's Policy on Conflicts of Interest.

7.13 Disclosures and Participation in Meetings – Non-Pecuniary (Section 454 of the Act)

7.13.1 A Councillor or a member of a Council Committee who has a non-pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the interest to the meeting as soon as is practicable.

7.13.2 The disclosure ideally should be in writing and describe the nature and extent of the pecuniary interest. [Note: A proforma declaration is provided in Attachment 1 in order to facilitate declarations.]

- 7.13.3 Non-pecuniary conflicts of interest must be managed in accordance with Council's Code of Conduct.
- 7.13.4 Where a non-pecuniary conflict of interest has been declared by a Councillor in a matter at a Council or Committee Meeting and that non-pecuniary conflict of interest is considered by the Councillors to be significant, the Council must leave the meeting, be out of sight of the meeting and not participate in discussions or voting on the matter.
- 7.13.5 Where a non-pecuniary conflict of interest has been declared by a Councillor in a matter at a Council or Committee Meeting and that non-pecuniary interest is considered by the Councillor to be less than significant and not requiring further action, the Councillor should provide an explanation of why he/she believes the conflict requires no further action in the circumstances.

Part 8 – Press and public

8.1 Public Forum

- 8.1.1 The Council shall make provision for members of the public to address the Council meeting on matters that are raised in the Business Paper.
- 8.1.2 Applications to address the Council:-
- a must be made no later than 4.00pm on the day of the Council Meeting to the Director - Corporate and Community or nominee who receives applications;
 - b must state the name and address of the applicant, a contact telephone number, and general details of the nature of the address;
 - c will be listed with a copy given to the Mayor immediately prior to the commencement of the meeting. The Mayor shall give first speaking preference to those persons who have an interest in a matter before the Council that evening.
- 8.1.3 The Council shall give consideration to allowing opposing points of view to be presented prior to determining a matter.
- 8.1.4 Subject to 8.1.5, fifteen (15) minutes will be allocated for discussion on any one item, with preference given to the arrangement where one person speaks for the motion and one speaks against the motion. Groups are encouraged to nominate a representative to make the presentation to the Council on behalf of the group.
- 8.1.5 Where two speakers have registered on the one subject, five (5) minutes will be given to each speaker. Where more than two speakers have registered to speak on the same item, the Chairperson will determine the equal allocation of time between speakers.
- 8.1.6 When making a presentation:-
- a Subject to 8.1.5, each presentation shall be limited to five (5) minutes, and the Council may extend the presentation by a further three (3) minutes if considered appropriate. The maximum time for all presentations on each subject will be limited to fifteen (15) minutes.
 - b Where it is considered that a particular matter requires further discussion, the Council may wish to resolve itself into a Committee of the Whole in accordance with clause 5.1.
 - c Speakers shall conduct themselves with due respect to the Council and observe the rules of order and meeting procedure as contained in the Code of Meeting Practice.
- 8.1.7 Councillors may, through the Chairperson, ask questions of the speakers at the conclusion of their address.

8.2 Committee Interviews – Public Forum

- 8.2.1 Any person with an interest in a matter before a Committee will be given the opportunity to make a presentation to the Committee.
- 8.2.2 All requests should be referred to the Committee Secretary who will liaise with the Chairperson and the applicant and make the necessary arrangements prior to the meeting.
- 8.2.3 The Chairperson will allow opposing views on the same issue to be put to the Committee without interruption.
- 8.2.4 As far as possible individuals with the same view should be encouraged to appoint a spokesperson to speak on their behalf.
- 8.2.5 All presenters are expected to answer questions put to them by Committee members and the Chairperson will not permit parties with opposing views to question each other.

8.3 Public Access to Correspondence and Reports (Section 11 of the Act)

- 8.3.1 The Council and a Committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting. [Note: Clause 2.9 allows public access to agendas and associated business papers issued prior to the Council Meeting.]
- 8.3.2 This clause does not apply if the correspondence or reports:
 - a relate to a matter that was received or discussed; or
 - b were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.
- 8.3.3 This section does not apply if the Council or Committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in Section 10A(2) of the Act (see Sub Clause 3.27.2), are to be treated as confidential.

Part 9 – Record of meetings

9.1 Minutes of Meetings (Section 375 of the Act)

- 9.1.1 The Council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council.
- 9.1.2 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.
- 9.1.3 A motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of proceedings.
- 9.1.4 The temporary absences from a meeting of Council or any Committee shall not be recorded in the Minutes unless the temporary absence is during a vote on a decision.

9.2 Minutes – Matters required to be recorded

- 9.2.1 Details of each motion and of any amendments moved to it (Clause 254(a) of the Regulation).
- 9.2.2 The names of the mover and seconder of any motion or amendment (Clause 254(b) of the Regulation).
- 9.2.3 Whether each motion and amendment is passed or lost (Clause 254(c) of the Regulation).
- 9.2.4 The circumstances and reasons relating to the absence of a quorum together with the names of the Councillors present (Clause 233(3) of the Regulation).
- 9.2.5 The dissenting vote of a Councillor when requested (Clause 251(2) of the Regulation).
- 9.2.6 When a valid division is called, a table of the names of each Councillor and the way their vote was cast, either For or Against, is recorded in the Minutes. (Clause 251(4) of the Regulation). Note that a division is always required when a motion for a planning decision is put to a meeting of the Council (Section 375A of the Act).
- 9.2.7 A report of the proceedings of the Committee of the Whole, including any recommendations of the Committee (Clause 259(3) of the Regulation).
- 9.2.8 The grounds for closing part of the meeting to the public (Section 10D of the Act).
- 9.2.9 The report of a Council Committee leading to a rescission or alteration motion (Section 372(6) of the Act).
- 9.2.10 The disclosure to a meeting by a Councillor of a pecuniary interest (Section 453 of the Act).

Part 10 – Miscellaneous

10.1 Disclosure and Misuse of Information

10.1.1 A person must not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:

- a with the consent of the person, from whom the information was obtained; or
- b in connection with the administration or execution of this Act; or
- c for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- d in accordance with a requirement imposed under the *Ombudsman Act 1974* or the *Government Information (Public Access) Act 2009*; or
- e with other lawful excuse.

10.1.2 In particular, should part of a meeting of a Council or a Committee of a Council is closed to the public in accordance with Section 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.

10.1.3 Clause 10.1.2 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 in any of the circumstances referred to in Clause 10.1.1; or
- c disclosure made in circumstances prescribed by the regulations; or
- d any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with Schedule 1 of the *Government Information (Public Access) Regulation 2009*.

10.1.4 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.

10.1.5 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.

10.2 Inspection of the Minutes of the Council or a Committee

- 10.2.1 Schedule 1 of the Government Information (Public Access) Regulation 2009 requires that the Minutes of the Council or a Committee are to be made publicly available for inspection. The public is entitled to inspect these documents either on Council's website or at the offices of the Council during ordinary working hours or at any other place determined by Council. Any current or previous Minutes may be inspected free of charge.
- 10.2.2 An inspection of the minutes of the Council or Committee of the Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes. [Note: The person so designated are the Director - Corporate and Community and in his absence another employee as designated by the General Manager.]
- 10.2.3 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: Schedule 1 of the Government Information (Public Access) Regulation 2009 confers a right to inspect the minutes of a Council or Committee of a Council.]

10.3 Access to Records

- 10.3.1 Councillors have access to Council records under the Government Information (Public Access) Act and Regulation 2009.
- 10.3.2 Nothing in this clause derogates from the common law right of a Councillor to inspect any record of the Council which is necessary for the Councillor to exercise the office of Councillor.

10.4 Recording of Meeting of the Council or a Committee Prohibited Without Permission (Clause 273 of the Regulation)

- 10.4.1 A person may use a recorder to record the proceedings of a meeting of the Council or a Committee of a Council only with the authority of the Chairperson, who will advise all other Councillors in attendance of the situation.
- 10.4.2 A person may, as provided by Section 10(2)(a) or (b) of the Act, be expelled from a meeting of a Council or a Committee of a Council for using or having used a recorder in contravention of this clause.
- 10.4.3 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 the place and, if necessary, restrain that person from re-entering that place.

10.4.4 In this clause, recorder includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

10.4.5 All mobile phones in the Chamber and Public Gallery are not to be used and are to be turned off or switched to silent/vibrate. Failure to do so or use of a mobile phone may be treated as an act of disorder.

10.5 Audio Recording of Meetings by Council Staff

10.5.1 Audio recordings of a meeting of the Council or a Committee of Council may be made by Council staff for the purpose of:

10.5.2 Assisting in the preparation of the Minutes;

10.5.3 Ensuring decisions are accurately recorded;

10.5.4 Verifying the accuracy of Minutes prior to their confirmation.

10.5.5 Audio recordings will be erased or otherwise destroyed as soon as the minutes of the meeting to which they relate has being officially confirmed or within three (3) months, whichever is the greater.

10.5.6 The tapes will be subject to the provisions of the Government Information (Public Access) Act 2009.

10.6 Certain Circumstances do not invalidate Council Decisions (Section 374 of the Act)

Proceedings at a meeting of the Council or a Council Committee are not invalidated because of:-

- a a vacancy in a civic office; or
- b a failure to give notice of the meeting to any Councillor or a Committee member; or
- c any defect in the election or appointment of a Councillor or a Committee member; or
- d a failure of a Councillor or a Committee member to disclose a pecuniary interest at a Council or a Committee Meeting; or
- e a failure to comply with this Code.

10.7 Council Seal (Clause 400 of the Regulation)

10.7.1 The Seal of a Council must be kept by the Mayor or the General Manager, as the Council determines.

10.7.2 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 (1) Councillor (other than the Mayor) and the General Manager; or
- c the Mayor and at least one (1) other Councillor; or
- d at least two (2) Councillors other than the Mayor.

10.7.3 The affixing of a Council Seal to a document has no effect unless the persons who were present when the Seal was affixed (being persons referred to in Clause 10.8.2) attest by their signatures that the Seal was affixed in their presence.

10.7.4 The Seal of a Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved (by resolution specifically referring to the document) that the Seal be so affixed. (The power to authorise the fixing of the Seal of Council can only be exercised by the Council. It cannot be delegated to a Committee or employee (Section 377 of the Act)).

10.7.5 For the purposes of Clause 10.8.4, a document in the nature of a reference or certificate of service for an employee of the Council does not relate to the business of the Council.

Version history

Include the details of the original adoption / approval and subsequent changes.
Version 1.0 is the initial adopted/approved version.

Version	Release Date	Author	Reason for Change
0.0		Bruce Cooke	New document

Disclosure of Interest – Pecuniary and Non-pecuniary

In accordance with the Council's Code of Meeting Practice, Council's Code of Conduct, and the *Local Government Act 1993* and *Regulations*, I hereby disclose the following Pecuniary Interest/Non-Pecuniary Interest at the meeting and in respect of the item indicated:

Date of Meeting:		Item No:	
Subject:			

☐

Pecuniary Interest – You must comply with Section 451 of the Local Government Act and state the nature of the interest at the meeting, leave the Chamber and be out of sight of the meeting, take no part on the discussion or consideration of the matter, and not vote on the matter.

☐

Significant Non-Pecuniary Interest – You must comply with Council's Code of Conduct (Section 7) and state the nature of the interest at the meeting, leave the Chamber and be out of sight of the meeting, take no part on the discussion or consideration of the matter, and not vote on the matter.

☐

Less than Significant Non-Pecuniary Interest – In accordance with Council's Code of Conduct (Section 7), you must state the nature of the interest at the meeting and where you decide that the interest 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.

Nature of Interest:	

Reason for no further action:	<u>Only where Less than Significant Non-Pecuniary Interest</u>

Councillor: _____
(Please print name)

(Signature)

Date: _____

Notice of Motion to alter or rescind a resolution

Original Resolution

Date of Meeting:	
Report title:	
Decision:	

Notice of Motion to rescind / alter

In accordance with the Council's Code of Meeting Practice, we hereby give notice that at the next available meeting of Council we intend to put the motion outlined below.

That Council rescinds the above decision. ☐
In the event that this motion to rescind is adopted,
we put the following further motion: ☐

OR

That the Council alters the above decision as outlined below. ☐

New Motion

Further motion (if rescission adopted)	That ...
OR	
Re-worded altered motion	

Councillors	Name	Signature	Date
	Name	Signature	Date
	Name	Signature	Date

Extraordinary Council Meeting

14/09/2016

Item No 5.2
Subject **Schedule of Council Meeting Dates and Venues**
Report by Evan Hutchings – Acting Manager Governance
 Liz Rog – Acting Manager Governance
File (R) F11/563

Summary

To adopt the 2016 Schedule of Council Meetings for Bayside Council.

Officer Recommendation

1. That the revised schedule of Council Meetings for Bayside Council 2016, as listed in the report, be adopted.
-

Background

Subject to the adoption of the draft Code of Meeting Practice at this evening's meeting, a revised Schedule of Council Meetings for 2016 is required to be adopted.

In accordance with the Code of Meeting Practice, Ordinary Meetings are scheduled to be held on the second Wednesday of each month, commencing at 7pm. The proposed dates for the revised 2016 Schedule of Council Meetings for the Bayside Council are included below.

It is proposed that the venue for the City Council meetings be rotated between the former Rockdale City Council Chambers and Botany Town Hall, with the first Ordinary Meeting being held at Botany.

The proposed dates for the 2016 Bayside Council Meeting schedule are as follows:

- 12 October 2016
 - 9 November 2016
 - 14 December 2016
-

Financial Implications

Not applicable

Community Engagement

Not applicable

Extraordinary Council Meeting

14/09/2016

Item No	5.3
Subject	Code of Conduct
Report by	Evan Hutchings – Acting Manager Governance Liz Rog – Acting Manager Governance
File	(R) F11/498

Summary

This report recommends the adoption of a Code of Conduct that supersedes the Model Code of Conduct applicable at the time of the Bayside Council Proclamation.

Officer Recommendation

1. That the Code of Conduct attached to the report, be adopted.
-

Background

The proclamation of Bayside Council on 9 September specified that the "The code of conduct for the new council is to be the model code (within the meaning of section 440 the Local Government Act 1993) until a code of conduct is adopted by the council in accordance with the Act."

Councils may adopt a code that includes provisions that supplement the model code. It is proposed that Bayside Council adopts a code that is based on the model, but includes the following more stringent and prescriptive provisions relating to:

- The acceptance of gifts and benefits under Part 5 'Personal benefit'.
- Contact between councillors and staff.

It is noted that many staff of Bayside are familiar with these additional provisions. If the Code is adopted, it is intended that awareness training will be conducted in the future to ensure all staff of the new organisation embrace principles of behaviour outlined in the draft Code of Conduct.

Financial Implications

Included in existing approved budget in relation to training costs.

Community Engagement

Not applicable.

Code of Conduct

DRAFT 14 September 2016



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Code of Conduct

File: F11/498 (R) Document: 16/110628

Adopted:

Class of document: Council Policy

Enquiries: Governance

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PART 1 Introduction

This Code is based on the Model Code of Conduct for Local Councils in NSW (“the Model Code of Conduct”), which is made for the purposes of section 440 of the *Local Government Act 1993* (“the Act”). Section 440 of the Act requires every Council to adopt a Code of Conduct that incorporates the provisions of the Model Code.

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

Failure by a Councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the Act. The Act provides for a range of penalties that may be imposed on Councillors for misconduct, including suspension or disqualification from civic office.

Failure by a member of staff to comply with Council’s Code of Conduct may give rise to disciplinary action.

Reference should also be made to Council’s Code of Conduct Procedures and to the better conduct guide that has also been developed by the Office of Local Government to assist councils to review and enhance their codes of conduct. This guide supports this code and provides further information on the provisions in this code.

PART 2 Purpose of the Code of Conduct

This Code of Conduct sets the minimum requirements of conduct for Council officials in carrying out their functions. The Model Code, on which this Code is based, is prescribed by regulation.

The Code of Conduct assists Council officials to:

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

PART 3 General Conduct Obligations

General conduct

You must not conduct yourself in carrying out your functions in a manner that is likely to bring the Council or holders of civic office into disrepute. Specifically, you must not act in a way that:

- a) contravenes the Act, associated regulations, Council's relevant administrative requirements and policies
- b) is detrimental to the pursuit of the charter of a council
- c) is improper or unethical
- d) is an abuse of power or otherwise amounts to misconduct
- e) causes, comprises or involves intimidation, harassment or verbal abuse
- f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
- g) causes, comprises or involves prejudice in the provision of a service to the community. (*Schedule 6A*)

You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (*section 439*)

You must treat others with respect at all times.

Fairness and equity

You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.

You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

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

Development decisions

You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.

In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

Binding caucus votes

You must not participate in binding caucus votes in relation to matters to be considered at a Council or committee meeting.

For the purposes of clause 3.9, a binding caucus vote is a process whereby a group of Councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the Council or committee irrespective of the personal views of individual members of the group on the merits of the matter before the Council or committee.

Clause 3.9 does not prohibit Councillors from discussing a matter before the Council or committee prior to considering the matter in question at a Council or committee meeting or from voluntarily holding a shared view with other Councillors on the merits of a matter.

Clause 3.9 does not apply to a decision to elect the Mayor or Deputy Mayor or to nominate a person to be a member of a Council committee.

PART 4 Conflict of Interests

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.

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.

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.

Private interests can be of two types: pecuniary or non-pecuniary.

What is a pecuniary interest?

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*)

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*)

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*)

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.

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?

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.

The political views of a Councillor do not constitute a private interest.

Managing non-pecuniary conflict of interests

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.

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

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

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.

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.

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.

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.

Despite clause 4.16(b), a Councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate Council's decision-making role to Council staff through the General Manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not Council would be deprived of a quorum if one or more Councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 4.16(b) above.

Reportable political donations

Councillors should note that matters before Council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.

Where a Councillor has received or knowingly benefitted from a reportable political donation:

- a) made by a major political donor in the previous four years, and
- b) where the major political donor has a matter before Council,

then the Councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 4.16(b).

For the purposes of this Part:

- a) a “reportable political donation” is a “reportable political donation” for the purposes of section 86 of the *Election Funding, Expenditure and Disclosures Act 1981*,
- b) a “major political donor” is a “major political donor” for the purposes of section 84 of the *Election Funding, Expenditure and Disclosures Act 1981*.

Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a Councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.

If a Councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 4.21, that Councillor is not prevented from participating in a decision to delegate Council’s decision-making role to Council staff through the General Manager or appointing another person or body to make the decision in accordance with the law (see clause 4.19 above).

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

Where a majority of Councillors are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the Councillors may apply in writing to the Chief Executive to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interests.

The Chief Executive will only exempt a Councillor from complying with a requirement under this Part where:

- a) compliance by Councillors with a requirement under the Part in relation to a matter will result in the loss of a quorum, and
- b) the matter relates to the exercise of a function of the Council that may not be delegated under section 377 of the Act.

Where the Chief Executive exempts a Councillor from complying with a requirement under this Part, the Councillor must still disclose any interests they have in the matter the exemption applies to in accordance with the requirements of this Part.

A Councillor, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interests in the matter, is permitted to participate in consideration of the matter, if:

- a) the matter is a proposal relating to

- i) the making of a principal environmental planning instrument applying to the whole or a significant part of the Council's area, or
 - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the Council's area, and
- b) the Councillor declares any interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part.

Other business or employment

If you are a member of staff of Council considering outside employment or contract work that relates to the business of the Council or that might conflict with your Council duties, you must notify and seek the approval of the General Manager in writing. (*section 353*)

As a member of staff, you must ensure that any outside employment or business you engage in will not:

- a) conflict with your official duties
- b) involve using confidential information or Council resources obtained through your work with the Council
- c) require you to work while on Council duty
- d) discredit or disadvantage the Council.

[For further guidance refer to Council's other / secondary employment policies / procedures]

Personal dealings with Council

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

PART 5 Personal Benefit

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

Gifts and benefits

You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the Council.

You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Gifts and benefits

Gifts and benefits can range from items of low value to those of significant value. They include:

- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
 - i) the discussion of official business
 - ii) Council work related events such as training, education sessions, workshops
 - iii) conferences
 - iv) Council functions or events
 - v) social functions organised by groups, such as Council committees and community organisations
- b) invitations to and attendance at local social, cultural or sporting events
- c) gifts of single bottles of alcohol to individual Council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers
- e) prizes
- f) tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

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

You must not:

- a) seek or accept a bribe or other improper inducement
- b) seek gifts or benefits of any kind
- c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty
- d) accept any gift or benefit except in special circumstances as defined in Council's Gifts and Benefits Policy
- e) accept an offer of cash or a cash-like gift, regardless of the amount.

For the purposes of clause 5.5(e), a 'cash-like gift' includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.

Where you are offered a gift or benefit, it must be disclosed promptly to your supervisor, the Mayor (if the General Manager) or the General Manager, by recording it in Council's Gifts and Benefits Register. Any gift or benefit received, due to special circumstances, must be surrendered to Council.

[For further guidance refer to Council's gifts and benefits policies / procedures]

Improper and undue influence

You must not use your position to influence other Council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A Councillor will not be in breach of this clause where they seek to influence other Council officials through the appropriate exercise of their representative functions.

You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for Council in order to obtain a private benefit for yourself or for any other person or body.

Bribes

If a bribe or other improper inducement is offered to you, you must immediately report the matter to the General Manager, to enable the General Manager to fulfil his/her obligations pursuant to Section 11 of the Independent Commission Against Corruption Act 1988. Such a report must be in writing and be provided to the General Manager as soon as possible following the incident.

PART 6 Relationship between Council Officials

Obligations of Councillors and administrators

Each Council is a body politic. The Councillors or administrator/s are the governing body of the Council. The governing body has the responsibility of directing and controlling the affairs of the Council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.

Councillors or administrators must not:

- a) direct Council staff other than by giving appropriate direction to the General Manager in the performance of Council's functions by way of Council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (*section 352*)
- b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the Council or a delegate of the Council in the exercise of the functions of the member or delegate (*Schedule 6A of the Act*)
- c) contact a member of the staff of the Council on Council related business unless in accordance with the policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the General Manager – refer to clause 6.8 below.
- d) contact or issue instructions to any of Council's contractors or tenderers, including Council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to Council's external auditors or the Chair of Council's audit committee who may be provided with any information by individual Councillors reasonably necessary for the external auditor or audit committee to effectively perform their functions.

Obligations of staff

The General Manager is responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation of the decisions of the Council without delay.

Members of staff of Council must:

- a) give their attention to the business of Council while on duty
- b) ensure that their work is carried out efficiently, economically and effectively
- c) carry out lawful directions given by any person having authority to give such directions
- d) give effect to the lawful decisions, policies, and procedures of the Council, whether or not the staff member agrees with or approves of them
- e) ensure that any participation in political activities outside the service of the Council does not conflict with the performance of their official duties.

Obligations during meetings

You must act in accordance with Council's Code of Meeting Practice, if Council has adopted one, and the *Local Government (General) Regulation 2005* during Council and committee meetings.

You must show respect to the chair, other Council officials and any members of the public present during Council and committee meetings or other formal proceedings of the Council.

Inappropriate interactions

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

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

Further to clause 6.2(c) above, and in order to undertake their civic duties, Councillors may contact the Executive, Managers and other staff nominated by the General Manager from time to time. The names, positions and contact details of such staff will be made available to Councillors and staff.

PART 7 Access to Information and Council Resources

The General Manager and public officer are responsible for ensuring that members of the public, Councillors and administrators can gain access to the documents available under the *Government Information (Public Access) Act 2009*.

The General Manager must provide Councillors and administrators with information sufficient to enable them to carry out their civic office functions.

Members of staff of Council must provide full and timely information to Councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with Council procedures.

Members of staff of Council who provide any information to a particular Councillor in the performance of their civic duties must also make it available to any other Councillor who requests it and in accordance with Council procedures.

Councillors and administrators who have a private (as distinct from civic) interest in a document of Council have the same rights of access as any member of the public.

Councillors and administrators to properly examine and consider information

Councillors and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with Council's charter.

Refusal of access to documents

Where the General Manager and public officer determine to refuse access to a document sought by a Councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the Councillor or administrator to perform their civic duty (see clause 7.2). The General Manager or public officer must state the reasons for the decision if access is refused.

Use of certain Council information

In regard to information obtained in your capacity as a Council official, you must:

- a) only access Council information needed for Council business
- b) not use that Council information for private purposes
- c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with Council
- d) only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.

In addition to your general obligations relating to the use of Council information, you must:

- a) protect confidential information
- b) only release confidential information if you have authority to do so
- c) only use confidential information for the purpose it is intended to be used
- d) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- e) not use confidential information with the intention to cause harm or detriment to your Council or any other person or body
- f) not disclose any information discussed during a confidential session of a Council meeting.

Personal information

When dealing with personal information you must comply with:

- a) *the Privacy and Personal Information Protection Act 1998*
- b) *the Health Records and Information Privacy Act 2002*
- c) the Information Protection Principles and Health Privacy Principles
- d) Council's privacy management plan
- e) the Privacy Code of Practice for Local Government

Use of Council resources

You must use Council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.

Union delegates and consultative committee members may have reasonable access to Council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:

- a) the representation of members with respect to disciplinary matters
- b) the representation of employees with respect to grievances and disputes
- c) functions associated with the role of the local consultative committee.

You must be scrupulous in your use of Council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.

You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

You must not use Council resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.

You must not use Council letterhead, Council crests and other information that could give the appearance it is official Council material for:

- a) the purpose of assisting your election campaign or the election campaign of others, or
- b) for other non-official purposes.

You must not convert any property of the Council to your own use unless properly authorised.

You must not use Council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

[For further guidance and obligations, refer to:

- Council's Expenses and Facilities Policy]
- Council's Electronic Communications Policy]

Councillor access to Council buildings

Councillors and administrators are entitled to have access to the Council chamber, committee room, Mayor's office (subject to availability), Councillors' rooms, and public areas of Council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the General Manager.

Councillors and administrators must not enter staff-only areas of Council buildings without the approval of the General Manager (or delegate) or as provided in the procedures governing the interaction of Councillors and Council staff.

Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence Council staff decisions.

PART 8 Maintaining the Integrity of this Code

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

Complaints made for an improper purpose

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

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

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

Detrimental action

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

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

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

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

Compliance with requirements under this code

You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.

You must comply with a reasonable and lawful request made by a person exercising a function under this code.

You must comply with a practice ruling made by the Division of Local Government.

Where you are a Councillor or the General Manager, you must comply with any Council resolution requiring you to take action as a result of a breach of this code.

You must report breaches of this code in accordance with the reporting requirements under this code.

You must not make allegations of suspected breaches of this code at Council meetings or in other public forums.

You must not disclose information about the consideration of a matter under this code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this code.

Complaints alleging a breach of this Part (Part 8) by a Councillor, the General Manager or an administrator are to be made to the Division of Local Government.

Complaints alleging a breach of this Part by other Council officials are to be made to the General Manager.

PART 9 Definitions

In the Code of Conduct the following definitions apply:

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

The term “you” used in the Code of Conduct refers to Council officials.

The phrase “this Code” used in the Code of Conduct refers also to the Procedures, based on the Model Procedures for the administration of the Model Code of Conduct prescribed under the Local Government (General) Regulation 2005.

PART 10 Additional information

In addition to the responsibilities outlined elsewhere in this Code:

- *The General Manager is responsible for ensuring this Code is in place, is promoted and is applied.*
- *The Manager Executive Services and/or Governance is responsible for the maintenance of this Code and its promulgation to Council officials and the private sector.*

Review

Council is committed to continuous improvement, including achieving higher levels of 'good governance'. This Code will be reviewed at least each elected term of Council, and each time *The Model Code of Conduct* and associated *Model Code of Conduct Procedures* are amended.

Version Control

Version	Release Date	Author	Reason for Change
0.0	14/09/2016	Bruce Cooke	New document

Extraordinary Council Meeting

14/09/2016

Item No	5.4
Subject	Delegations to the Interim General Manager
Report by	Evan Hutchings – Acting Manager Governance Liz Rog – Acting Manager Governance
File	(R) F16/31

Summary

To delegate to the Interim General Manager the functions of the Council pursuant to Section 377 of the Local Government Act 1993 ('the Act').

Officer Recommendation

1. That the delegations granted to the Interim General Manager by virtue of the Proclamation be revoked and the Interim General Manager be delegated all of the functions of the Council other than those specified in Section 377(1) of the Local Government Act 1993.
-

Background

On 9 September 2016, Bayside Council was proclaimed by the Governor of New South Wales. The proclamation specified that:

- a) A delegation from a former council that was in force immediately before the amalgamation date is taken to be a delegation by the new council and may be revoked or amended accordingly;
- b) A delegation by a former council to the general manager of that council that was in force immediately before the amalgamation day is taken to be a delegation by the new council to the interim general manager and may be revoked or amended accordingly.

Delegations to the Interim General Manager

Section 377 of the Act enables a Council to delegate to the General Manager, or any other person or body, any of the functions of the Council excepting a range of functions so specified, as follows:

- (1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council, other than the following:
- (a) the appointment of a general manager,
 - (b) the making of a rate,
 - (c) a determination under section 549 as to the levying of a rate,
 - (d) the making of a charge,
 - (e) the fixing of a fee,
 - (f) the borrowing of money,

- (g) the voting of money for expenditure on its works, services or operations,
- (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),
- (i) the acceptance of tenders which are required under this Act to be invited by the council,
- (j) the adoption of an operational plan under section 405,
- (k) the adoption of a financial statement included in an annual financial report,
- (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
- (m) the fixing of an amount or rate for the carrying out by the council of work on private land,
- (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,
- (o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the [Environmental Planning and Assessment Act 1979](#),
- (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,
- (q) a decision under section 356 to contribute money or otherwise grant financial assistance to persons,
- (r) a decision under section 234 to grant leave of absence to the holder of a civic office,
- (s) the making of an application, or the giving of a notice, to the Governor or Minister,
- (t) this power of delegation,
- (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.

A review of the delegations of the former Botany and Rockdale City Council's granted to the Interim General Manager by way of the proclamation reveals a range of differences between those delegations that were previously granted to the General Managers of those former Councils.

It is recommended that so as to facilitate and ensure the consistent exercise of Council's authorities and operations across the newly formed local government area, that the delegations granted to the Interim General Manager by virtue of the proclamation be revoked and the Interim General Manager be delegated all of the functions of Council other than those specified in Section 377(1) of the Act.

It should also be noted that Section 378 of the Act provides the General Manager with the ability to sub-delegate any of the functions delegated to the General Manager (including another employee of the Council), other than this power of delegation. It is therefore appropriate for the Interim General Manager to subsequently undertake a thorough review of the General Manager's sub-delegations that existed in the former Councils (in accordance with section 378 of the Act) to staff to ensure consistency for the new Council.

Financial Implications

Not applicable

Community Engagement

Not applicable.

Extraordinary Council Meeting

14/09/2016

Item No 5.5
Subject **Expenses & Facilities Policy – Administrator**
Report by Evan Hutchings – Acting Manager Governance
 Liz Rog – Acting Manager Governance
File (R) F15/427

Summary

The Administrator will require facilities and reimbursement of expenses to assist them in carrying out their civic duties. The Expenses and Facilities Policy outlines the provision of facilities and reimbursement of reasonable expenses to the Administrator.

Officer Recommendation

1. That the Payment of Expenses and the Provision of Facilities for Mayor and Councillors Policy, annexed to the report, be adopted as Bayside Council's policy.
 2. That any reference to Council, the Mayor and Councillors in the policy referred to in (a) above be taken to be a reference to the Administrator.
-

Background

Section 252 of the Local Government Act 1993 requires councils to "...adopt a policy concerning the payment of expenses incurred, or to be incurred by, and the provision of facilities to, the Mayor, the Deputy Mayor and the other Councillors in relation to discharging the functions of civic office."

In view of the recent amalgamation of the former City of Botany Bay and former Rockdale City Council to form the new Bayside Council it is necessary for the new entity to endorse a policy concerning the payment of expenses to, and reimbursement of costs incurred by, the Administrator.

In this regard, it is proposed to utilise the former Rockdale City Council's most recent Payment of Expenses and the Provision of Facilities for Mayor and Councillors policy, in accordance with the Office of Local Government's guidelines, the Local Government Act 1993 and Clause 217 of the Local Government (General) Regulation 2005. This policy has been updated with the new name Bayside Council. No other changes have been made to this policy at this time.

In addition, it should be noted that any reference in this policy to the Council, the Mayor and Councillors is to be taken to be a reference to the Administrator.

It is recommended that the Bayside Council's policy for the Payment of Expenses and the Provision of Facilities to the Mayor and Councillors, annexed to this report, be adopted.

Financial Implications

Not applicable.

Community Engagement

Not applicable.

Expenses & Facilities Policy

Draft 14 September 2016



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Expenses & Facilities Policy
File: F11/553 Document: 16/111665
Class of document: Council Policy

Enquiries: Governance

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PART 1. INTRODUCTION

1. TITLE, COMMENCEMENT OF THE POLICY

This Policy will be referred to as the Expenses and Facilities Policy for the Mayor, and Councillors; long title is Policy for the Payment of Expenses and the Provision of Facilities to the Mayor, and Councillors. This policy takes effect from the date of adoption until further amended.

Amended 2/2/2005

Amended 21/3/2007

Amended 15/6/2011

Amended 7/12/2011

Amended 21/11/2012

Amended 6/11/2013

Amended 21/10/2015

2. DEFINITIONS

For the purpose of this policy the term “**Councillors**” also refers to the **Mayor** and **Deputy Mayor** unless otherwise stated.

Accompanying person is a person who has a close personal relationship with the Councillor and/or provides carer support to the Councillor.

Administrators of Council in circumstances where an Administrator has been appointed this Policy also applies.

Councillor expenses and facilities policies: policies prepared under these guidelines on the payment of expenses and the provision of facilities to Mayors and Councillors.

Expenses: Payments made by the Council to reimburse Councillors for reasonable costs or charges incurred or to be incurred for discharging their civic functions. Expenses must be outlined in a Council’s policy and may be either reimbursed to a Councillor or paid directly by a Council for something that is deemed to be a necessary expense to enable the Councillor to perform their civic functions. Expenses are separate and additional to annual fees.

Facilities: Equipment and services that are provided by the Council to Councillors to assist or enable them to perform their civic functions with relative ease and at a standard appropriate to their professional role as Councillors.

Functions of civic office/civic functions: Functions that Councillors undertake to fulfil their legislated role and responsibilities for the Council that should result in a direct benefit for the Council and/or for the local government area.

Legal Expenses means any fee or fees charged for legal representation or legal advice.

The Act: The Local Government Act 1993.

The Regulation: The Local Government (General) Regulation 2005.

3. PURPOSE OF THE POLICY

To ensure that there is accountability and transparency in the reimbursement of actual expenses incurred by Councillors. This policy also ensures that the facilities provided to assist Councillors to carry out their civic functions are reasonable.

To reimburse Councillors for expenses reasonably incurred in the performance of their role as a Councillor, including expenses incurred in becoming adequately informed on subjects relevant to their civic functions.

Further that the details and range of expenses paid and facilities provided to Councillors by the Council are clearly and specifically stated, fully transparent and acceptable to the local community.

4. OBJECTIVES AND COVERAGE OF THE POLICY

The objectives of this policy are:

- To ensure that the Mayor, as the first citizen of the Bayside Council area, as the leader of the governing body of the Council and as the principal spokesperson on Council policy and attitude is reimbursed for expenses reasonably incurred in performing the role of Mayor, and is provided with a standard and range of facilities appropriate to the importance of the office.
- To ensure that the Councillors of Bayside in their dual roles as members of the governing body of the Council and as elected persons are reimbursed for expenses reasonably incurred in the performance of the role and are provided with a standard and range of facilities to assist in discharging the functions of civic office.
- To ensure that the Mayor and Councillors do not suffer financial hardship by meeting their responsibilities as a member of the governing body of the Council or as an elected person.

5. OBLIGATIONS OF COUNCILLORS

A Councillor must:

- Use Council resources effectively and economically in the course of his or her discharging the functions of civic office and must not use them for private purposes unless the use is authorised by this policy and proper payment is made.
- Not convert to his or her use any property of Council.
- Carry out the functions of civic office by attending a variety of functions in their capacity as a representative of Council.

6. REPORTING REQUIREMENTS

Section 428 of the Act and clause 217 of the Regulation require Council to include in each Annual Report a copy of the Policy and details of the cost of implementing the Policy. These are detailed in section 20 of this Policy.

The General Manager must include in Council's annual report such information on expenses as required by the Regulation but also itemised by individual Councillor and Mayor.

7. LEGISLATIVE PROVISIONS

This policy is made under the Act including Sections 252 to 254A, together with clause 403 of the Regulation. The Act requires that the Council must adopt a policy concerning the payment of expenses incurred by, and the provision of facilities to, the Mayor and other Councillors.

Note:

This policy excludes annual fees paid to the Mayor and Councillors in accordance with Sections 248-251 of the Act. These fees are separately determined each year based on the determination of the Local Government Remuneration Tribunal.

8. OTHER GOVERNMENT POLICY PROVISIONS

In addition to the Act and Regulation a number of documents have also been considered during the development of this Policy including:

- Division of Local Government (Department of Premier and Cabinet) Guidelines for payment of expenses and provision of facilities
- Model Code of Conduct
- Division of Local Government Circulars to Councils
- ICAC publications

Further details in relation to these documents are contained in section 23 of this Policy.

9. APPROVAL ARRANGEMENTS

Attendance at seminars, conferences, training, education and including other activities where they attend to Council business and the like is to be, where possible, approved by a full meeting of the Council. If this is impracticable then the approval is to be given jointly by the Mayor and the General Manager. If the Mayor requires approval to travel outside of a Council meeting it should be given jointly by the Deputy Mayor or another Councillor and the General Manager.

All other matters not specifically covered by this policy in relation to civic office expenses or facilities are to be dealt with by the Mayor and General Manager.

Total costs for the payment of expenses and the provision of facilities to the Mayor and Councillors are to be within the limits of the provision of this Policy and Council's annual budget, with expenditure against budget allocation to be reviewed quarterly in accordance with Council's normal quarterly budget review process.

PART 2. PAYMENT OF EXPENSES

10. GENERAL PROVISIONS

10.1 Payment of Expenses Generally

Where there is a right under this Policy to claim reimbursement of costs and expenses, reimbursement will only be made upon the production of appropriate receipts and tax invoices, and the completion of the required claim forms, attached to this policy (see Appendix A).

Unless extraordinary circumstances are determined by the Mayor and General Manager Councillors must seek reimbursement of expenses within three (3) months of incurring that expense.

All/any payments in advance in anticipation of expenses to be incurred in attending conferences, seminars, training and approved functions/events away from the City are to be reconciled within three (3) months of the conclusion of the conference, seminar, training, and approved event/function.

Where a service is partly used for official Council business, Councillors must claim only that part directly related to their civic duties as a Councillor. Individual Councillors must therefore make a reasonable estimate as to their private and civic duties usage (in percentage terms) for such accounts. In accordance with the DLG Guidelines incidental private use is allowed. Council allows 5% for private use for mobile phones, landlines, internet, stationery and minor equipment. Any private usage above the 5% threshold must be paid for by the Councillor.¹

This policy only authorises payment or reimbursement of actual expenses incurred by Councillors in carrying out their civic duties. Council will not pay a general expense allowance. It is not appropriate or lawful to pay a general allowance unrelated to actual expenses incurred or designed to supplement Councillors' annual fees payable under the Local Government Act 1993. Only those expenses included in this policy are to be paid or reimbursed.

Decisions on approval or refusal of claims for expenses for Councillors will be made by the Manager, Executive Services.

General Expenses^{2 3}

Notwithstanding any other specific references in this Policy to individual values for expenses the total expenses that are claimable by Councillors will be as follows:

¹ DLG Circular No. 07-22 (Guidelines for Payment of Expenses May 2007) Guidelines Private Benefit Page 9-10

² DLG Circular No. 07-22 (Guidelines for Payment of Expenses May 2007) Limits Page 7 Reasonable Expenses Page 7 Monetary Limits to Expenses Page 9

³ DLG Circular 02/34 Unauthorised Use of Council Resources

<u>Total Reimbursement for General Expenses each 12 month period from September to September</u>	
<u>Position</u>	<u>Amount</u>
<u>Mayor</u>	<u>\$15,000</u>
<u>Deputy Mayor</u>	<u>\$12,000</u>
<u>Councillor</u>	<u>\$11,000</u>

* Council is required to review its Expenses and Facilities Policy on an annual basis.

10.2 Process for Disputes⁴

When a Councillor's Expenses Claim is refused for not being in accordance with this Policy:

- The Councillor is advised by the Manager, Executive Services via email.
- Councillor states his/her case to the Manager Executive Services in writing if he/she disputes the determination.
- Manager Executive Services to advise the Councillor of his/her decision in writing.
- The Councillor then has the right to have the matter determined by Council.
- Councillor submits his/her claim in writing for Council's determination.
- The matter is determined by Council; Council's Resolution is adhered to.

10.3 Annual Fees

Annual fees are payable to the Mayor and Councillors in accordance with the determination of the Local Government Remuneration Tribunal. Council's policy determined on 6 June 2012 is that future increases be in line with the NSW Government Wages Policy for the Public Sector or the Tribunal's recommendation, whichever is the lower.

10.4 Spouse, Partner and Accompanying Persons Expenses

Council will meet the reasonable costs of spouses, partners and accompanying persons when they accompany the Mayor or Councillors in the following circumstances:

- Attendance at formal and ceremonial events/functions. This includes but not limited to Australia Day Award Ceremonies, Citizenship Ceremonies, Civic Receptions and charitable functions for charities formally supported by the Council.
- Attendance at the Local Government and Shires Associations' Annual Conference with costs limited to conference registration and official conference dinner.

⁴ DLG Circular 09-36 (Guidelines for the Payment of Expenses and the provision of Facilities for Mayors and Councillors in NSW – October, 2009) Page 6.

- Attendance by the Mayor or a Councillor representing the Mayor at an official Council function or official ceremonial duty outside the city but within the state. Interstate and overseas events are expressly excluded.

The above reasonable costs are limited to the ticket, meal and/or direct costs of attending the function and specifically exclude grooming, special clothing and transport costs. Furthermore the policy does not include attendance at seminars, conferences and the like.

Any additional accommodation and/or other costs incurred as a result of the attendance of spouse, partners, accompanying persons and/or children shall be borne by the Councillor.

Note: An accompanying person in this policy is defined as a person who has a close personal relationship with the Councillor and/or provides care support to the Councillor.

11. SPECIFIC EXPENSES FOR MAYORS AND COUNCILLORS

11.1 Attendance at seminars, conferences, training, education and including Council business.

Councillors, with the approval of Council or with the written approval of the Mayor and the General Manager are able to attend conferences, seminars, education and training courses etc subject to the following:

- The conference, seminar etc relates to Local Government, its responsibilities and the functions of civic office;
- It is held within Australia; and
- All relevant costs are within the available budget.

Councillors attending conferences, seminars, courses etc will have the following expenses paid, where applicable, provided Council has resolved that the Councillor attend the conference seminar etc or written approval has been provided by the Mayor and the General Manager:

- Registration fees, official luncheons, dinners and tours relevant to the conference, seminar, courses, etc and meetings.
- Accommodation in the hotel where the conference is being held, or the nearest hotel of a similar standard, or as authorised by the host organiser where the conference is not located within Sydney metropolitan area. The period of accommodation is to include the night before the conference, seminar etc and the night of the last day of the conference, seminar.
- Reasonable costs (including sustenance, telephone, fax and Internet charges, laundry and dry cleaning charges, newspapers, taxi fares and parking fees).
- Reasonable childcare expenses of the Councillor incurred where the Councillor is the nominated Primary Care Giver of any child that may be required to accompany the Councillor to the conference during official conference sessions including conference luncheons and dinners.

- Accommodation for Council business not covered within this policy will be determined by the Mayor and General Manager.

Council will make all necessary arrangements for Councillors attending conferences, seminars, courses etc. The procedures will be as follows:

- Council will, where possible, book accommodation in advance and pay expenses directly to the hotel/host organisation.
- Councillors finding they need to pay unexpected expenses will submit a claim for reimbursement to the General Manager, as provided in Clause 10.1 of this policy.
- Once all expenses have been finalised, accounts will be forwarded to Councillors for any expenses payable to them, in accordance with Council's normal terms ie. 30 days. Any arrangements to finalise an account by periodic payment must be approved by the Mayor and the General Manager.

All Councillors will, as soon as possible or otherwise within one month after attending a conference/seminar (excluding the Local Government Annual Conference and Education and Training Courses), provide the Council with a written report on the aspects of the conference/seminar relevant to the Council business. Alternatively copies of papers presented, decisions taken etc in either an electronic or paper form are to be provided to the General Manager who will advise Councillors of their existence and provide copies to interested Councillors.

Councillors attending approved education and training courses that are directly associated with their civic duties, must provide a written request to the General Manager stating what the course covers and what the benefits are to both Council and the community. Each Councillor will be eligible to attend Council approved education and training courses up to an individual value of \$5000 per annum.

Council is committed to supporting Councillors attending learning and professional development activities related to Council functions and their role as a Councillor. A Councillor Development Plan will be developed to address the training needs of Councillors and funds will be allocated in the budget to support the training plan. As part of this Plan, Council will arrange for internal seminars and guest speakers to address Councillors on relevant topics (e.g. changes to legislation, best practice initiatives).

11.2 Attendance at dinners and other non-Council functions representing Council

Council will meet the cost of Councillors attendance at dinners and other functions where the Councillor is representing Council or the Mayor as well as non-Council functions that provide briefings to Councillors from key members of the community, politicians and business.

Approval to meet the cost of attending will only be given when the function is relevant to the Council's interest. Reimbursement will be up to a maximum of \$150 per function per person.

Approval will not be provided for a Councillor to attend any political fundraising event, for any donation to a political party or candidate's electoral fund or for some other private benefit. Enquires should be made whether any expenses to be incurred would be directed towards such events and activities prior to approval being granted.

11.3 Local travel arrangements and expenses

As a general principle councillors should undertake their travel by utilising the most direct route and the most practicable and economical mode of transport including public transport. Councillors are also encouraged to walk or use a bicycle where appropriate for Council related business.

11.3.1 Public Transport

Council will meet the cost of reasonable public transport expenses for travel relating to council business eg activities described in clause 11.1, 11.2 and 11.3.4.

11.3.2 Private Motor Vehicle Use

Councillors may claim the per kilometre allowance proscribed under Clause 10 of the Local Government (State) Award. The claim is to be submitted no later than 1 month after the costs were incurred and the claim include full details of the nature of the Council business, the date and time and the amount claimed. Councillors are responsible for any fines for parking and traffic infringements.

11.3.3 Bicycle

Councillors may claim incidentals costs for the use of a bicycle to attend Council related business.

11.3.4 Cabcharge

Cabcharge will be provided and is available to an annual value of \$1000, in the following circumstances:-

- Attendance by Councillors at meetings of community groups whose activities encompass all or part of the city and where the venue of such meeting may be either inside or outside the city.
- Attendance at social functions or meetings as a representative of the Mayor or Council when requested to do so by the Mayor.
- Attendance at social functions or meetings where the invitation or opportunity to attend the functions or meetings would not, in the normal course of events have been extended to the Councillor(s) concerned had it not been for their position as a Councillor within Council.
- Inspection of works or properties in the city as a result of a request from the resident.
- Travel as a result of Councillors attendance at a Council, Committee, Reference Group, Task Group, External Committee or Working Party meeting or where 3 or more Councillors are meeting on Council business.
- Attendance at approved Conferences, Seminars, Training Sessions and Courses. Cabcharge can be used in relation to the above events/activities for travel between:
 - place of residence and airport, airport and approved accommodation;

- approved accommodation and site of conference or official visit;
- within approved locations outside of the Council area.

Note:

Councillors are required to submit Cabcharge dockets containing a note as to the Council business/function attended that was covered by the journey and the pick up point and destination for reconciliation with the monthly account from the service supplier.

11.3.4 Parking Fees and Tolls

Councillors will be reimbursed reasonable parking fees and road tolls incurred while on business expressly authorised by this policy. Fees payable will be up to \$75 per event.

11.4 Travel outside the LGA including Interstate travel

11.4.1 Travel within Australia

Councillors who travel within Australia as approved under this policy have the following entitlements in relation to transportation:

- An economy class air ticket (or business class if medical reasons prevail). Any travel by train will be by First Class, including sleeping berths where necessary. With all travel arrangements due consideration is to be given to the physical capacity of the Councillor and any variation to these arrangements will be with the approval of the Mayor and the General Manager.
- Use of a personal vehicle (provided the vehicle has current and unlimited third party risk insurance covering damage by the vehicle to property). Councillors may claim the per kilometre allowance prescribed under Clause 10 of the Local Government (State) Award for the shortest practical route. The claim is to be submitted no later than 1 month after the costs were incurred and the claim include full details of the nature of the Council business, the date and time and the amount claimed.
- Travel using a Council owned vehicle – A Councillor may use a Council-owned vehicle (if one is available) to facilitate the Councillors travelling requirements under this Policy by the shortest practical route and meeting the following;
 - Provide a copy of a current and valid drivers licence to the Manager, Executive Services indicating that they are licenced to drive a Council vehicle.
 - May claim actual costs, if a fuel card does not meet the full costs involved, and a claim is submitted to the General Manager within one month of costs being incurred in the terms referred to in this policy.
- Use of Hire car – A Councillor may use a hire car to facilitate travel requirements provided approval by the General Manager has been given prior to the use of the vehicle.

11.4.2 Overseas Travel

- Any overseas travel by a councillor is at the expense of the individual councillor.

11.4.3 General

Council's policy is as follows:

- accommodation expenses incurred for conference, seminars and/or other travel/delegation etc. will be paid for by Council, including for the night prior to such conference or delegation, depending upon travel schedules, as expressly authorised by Council prior to such travel being incurred. In accordance with the Australian Fringe Benefits Tax Guidelines, these accommodation expenses need to be substantiated in writing and a travel record kept where the travel involves more than 6 nights away from the Councillor's ordinary place of residence;
- all travel vouchers and/or tickets will be returned to Council at the completion of each journey; the cost of daily meals and any incidental expenses actually incurred by the authorised attendee of Council to conferences and/or delegations. Amounts will be reimbursed on provision of documentary evidence and a claim form and to the daily limit having regard to the amounts set in the Australian Taxation Office TD2011-017 for 2011/12 or such determinations or policies of the Australian Tax Office that supersede it. In this regard for domestic travel the limits are set per Table 3 of paragraph 11 of that ruling. Provided also that such expenses incurred are subject to the period of stay not exceeding the period for the conference or authorised business plus one day each way for travelling;
- airfares will be at economy class standard, or business class if medical reasons prevail.

After returning from overseas Councillors or an accompanying member of staff are to provide a detailed written report within one month to Council on the aspects of the trip relevant to Council business and/or the local community.

If the travel is sponsored by private enterprise, ICAC guidelines and reporting structures will be followed.

Note: Administrative arrangements may be made for Council to initially fund travel and accommodation costs of Councillors associated with the Sister City Program, with such costs being fully reimbursed by Councillors from their monthly fee payments over a maximum 12 month period.

11.5 Carers Expenses (Childcare, the care of the elderly, disabled and/or sick immediate family member)

Councillors will be reimbursed for reasonable expenses incurred for carer's expenses due to the need to attend Council Meetings, Committee Meetings or other official Council business providing the Councillor is the Primary Care Giver or a Legal Guardian irrespective of whether more than one Councillor on Council is responsible for the care of an immediate family member. Councillors are to provide evidence of attendance at such events.

Councillors will be reimbursed for expenses paid to providers other than spouse or partner up to one (1) hour before and up to one (1) hour after the civic duties mentioned above, to a maximum of \$150 per day, per person requiring care except for childcare expenses. In respect of childcare expenses the maximum limit that may

be reimbursed is \$150 per family per day. Childcare limits do not apply in cases of the Local Government Association Conference (see section 11.1).

11.6 Disability and Access Needs

Council will give consideration to the payment of reasonable expenses associated with the special requirements of Councillors with respect to disability and access needs to allow them to perform their normal civic duties.

11.7 Insurance and Legal Assistance

11.7.1 Insurance

Councillors are covered under the following insurance policies on a 24 hour basis while discharging the duties of civic functions, including attendance at meetings of external bodies as Council's representative:

- **Personal Injury** Whilst ever on Council business, worldwide, bodily injury caused by accidental, violent, external and visible means is covered up to a sub-limit for death and capital limits of \$200,000. It also covers permanent disablement, temporary total disability and temporary partial disability. Current policy does provide cover for "non-Medicare -medical expenses" ie the Medicare gap.
- **Professional Indemnity** For matters arising out of Councillors' performance of civic duties or exercise of their functions as Councillors provided the performance or exercise of the relevant civic duty or function is in the opinion of Council bona fide and/or proper and is carried out in good faith, as required under Section 731 of the Local Government Act. **BUT** subject to any limitation or conditions set out in the policy of insurance, which is, at the direction of Council, taken out.
- **Public Liability** For matter arising out of Councillors' performance of civic duties or exercise of their functions as Councillors, carried out in good faith **BUT** subject to any limitations or conditions set out in the policy of insurance which is, at the direction of Council, taken out.

11.7.2 Legal Assistance

11.7.2.1 The Council may indemnify or reimburse, a Councillor's reasonable legal costs including defending legal proceedings being taken against a Councillor arising from the discharging in good faith the Councillors functions of civic office under the Local Government Act (section 731 refers) or defending where such proceedings are an action in defamation, provided that the outcome of the legal proceedings is not substantially unfavourable to the Councillor.

Provided that:

- the amount of such reimbursement shall be limited to the extent that only fees charged at a rate equivalent to the average hourly rate then being charged by partners at the firm(s) then appointed by Council as it's solicitors will be

paid, and any portion of the expenses exceeding that hourly rate will not be reimbursed; and

- the amount of such reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis as a result of the proceedings which caused the legal expenses to be incurred; and
- the legal expenses were incurred:
 1. as a result of an inquiry, investigation or hearing, into a Councillor's conduct by an appropriate investigative or review body including but not limited to:
 - Local Government Pecuniary Interest and Disciplinary Tribunal
 - Independent Commission Against Corruption
 - Office of the Ombudsman
 - Division of Local Government, Department of Premier and Cabinet
 - NSW Police Force
 - Director of Public Prosecutions
 - Councils Conduct Review Committee/ Reviewer
 - A Court
 2. as a result of legal proceedings taken against the Councillor in relation to his or her discharging in good faith the functions of civic office; or
 3. as a result of an appeal commenced by the Councillor against the outcome of any originating inquiry, investigation, hearing or proceeding relating to the discharge of the functions of civic office but only if the appeal is successful;
- the expenses can only be reimbursed after the conclusion of the inquiry, investigation, hearing or proceeding.

Note: This may include circumstances in which a matter does not proceed to a finding. Also in addition to a Councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach had occurred may not necessarily be considered a substantially unfavourable outcome.

11.7.2.2 Council will not meet:

- the legal costs of legal proceedings initiated by the Mayor and/or Councillors under any circumstance,⁵
- expenses incurred in any defamation proceedings instituted by the Councillor, even if they relate to activities undertaken by the Councillor in relation to discharging the function of civic office;
- expenses arising from an investigation as to whether a Councillor acted corruptly by using knowledge of a proposed rezoning for private gain;
- any expenses incurred by a Councillor in discharging the functions of civic office not in good faith.

⁵ DLG Circular No. 07-22 (Guidelines for Payment of Expenses May 2007) Legal Assistance Provisions and Expenses Page 18

- 11.7.2.3 It should be noted that the legal expenses must be incurred in relation to discharging the functions of civic office and not all activities by a Councillor undertaken as a Councillor as such.
- 11.7.2.4 Notwithstanding the above, the General Manager is delegated to obtain legal advice relating to this Policy and any associated matters concerning to a pecuniary interest, conflict of interest or matter governed by the Code of Conduct which in the opinion of the General Manager is necessary to clarify the particular Councillor's responsibilities in the performance of his/her functions of civic office.
- 11.7.2.5 Any resolution by Council to provide indemnity and reimbursement needs to be subject to the provisions of this Policy and specifically clause 11.7.2.1.
- 11.7.2.6 A Councillor seeking reimbursement of any legal costs must following the claims process outlined in Appendix B to this Policy.

PART 3 PROVISION OF FACILITIES

12. PROVISION OF FACILITIES AND EQUIPMENT FOR COUNCILLORS

Given the increasing ownership or access by individuals to electronic communication devices such as PCs, internet, and mobile phone devices it is recognised that Councillors may not wish to duplicate such services by the provision of separate communications devices. Accordingly in such circumstances Council's preference is that Councillors use their own equipment/services and seeking reimbursement of usage for civic office purposes from Council eg for voice and data costs.

Council takes a flexible approach towards continuously reviewing innovations to obtain the benefits from such technological advances that improve service and reliability.

Equipment, facilities and services provided under this policy shall not be used to produce election material or for political purposes. Council's Code of Conduct and Electronic Communications Policy also govern the use of such equipment. Councillors will be required to sign an Electronic Equipment Acknowledgement Statement (as per Appendix C or similar) to that effect.

12.1 Telephone costs and expenses

Councillors have two options.

- Councillors may use their private electronic communications services and related equipment (including mobile, landline and fax) for Council related business and claim reimbursement up to a monthly maximum of \$150 (including voice, fax, landline and data) from Council. Councillors using their private electronic communication devices are required to present copies of monthly accounts and indicate the costs attributable to Council business.
- Councillors may use a Council provided mobile phone service and equipment (under a capped agreement up to \$150 per month). Costs in excess of capped agreement will be repaid by the Councillor. The mobile phones will remain the property of Council subject to the acquisition provisions under this Policy.

All mobilephone/landline/faxlines numbers the subject of reimbursement of costs or mobile phone numbers provided by Council will be automatically published as contact number(s) of the relevant Councillor.

Councillors must abide by all Federal, State and Local laws and regulations when using a Council mobile phone including those that apply to the use of mobile phones while in motor vehicles.

12.2 iPad

Councillors will be provided with an iPad, or equivalent tablet based on Council's current standards, to enable Internet access, emailing access to Council business papers, minutes, policies and other Council records. This will include the provision of relevant "apps" as considered relevant from time to time by Council to enable

councillors to undertake their civic duties. A data package will be provided to a maximum of \$60 per month.

12.3 Personal Equipment and Internet Access

All Councillors will be provided with a Council email address and extranet service (or Councillor Webpage).

In addition Councillors have two options:

1. Provide their own

Councillors may use their private home internet service and related equipment eg PC, Laptop and/or printer for Council business and claim reimbursement from Council. The limits are:

- For internet access up to a monthly maximum of \$79. This service may be part an overall voice/data service. Councillors using their internet service are required to present copies of monthly account and indicate the costs attributable to Council business.
- For Multi functional device, printer or similar then paper suppliers to a limit of \$250 per annum (as per section 12.7) and other consumables ie toner to a limit of \$250 per annum.

2. Council provided:

Where Councillors prefer Council provided equipment then they may select:

- 1 Multi functional device, printer or similar to Council's standard and the provision of paper suppliers to a limit of \$250 per annum (as per section 12.7) and other consumables ie toner to a limit of \$250 per annum.
- 1 Council Standard Laptop
 - All equipment will be provided with the latest system configuration requirements and be subject to regular reviews to keep pace with future technological advancements and the latest operating software.
 - No unauthorised or unlicensed software is to be installed on the computer provided by Council and Councillors are required to comply with Councillor Use of Email and the Internet at all times, when using Council's computers.
 - Wireless Internet access via USB dongle or related means up to a maximum of \$79 per month.

12.4 Other Equipment

Councillors may also select from within the following list the appropriate type of equipment/support required to perform their duties:

- **Shredder** - Provided with a paper shredder on request.
- **Filing Cabinet** - Be provided on request with a filing cabinet.
- **Computer software training** - Be provided with computer training where necessary to undertake the functions of civic office. Council will meet training course fees and software.

12.5 Public Facilities

Councillors will be provided with the following facilities, which remain the property of Council and must be returned to Council when Councillors cease to hold office:-

- A security card and automatic gate “buzzer” to enable access from outside of the building to the Councillors’ Room, in the case of the Mayor, access to the Mayor’s office, in the case the Deputy Mayor access to Deputy Mayor’s Office.
- Above Rooms suitably furnished and equipped with telephone, computer facilities and photocopier to enable meetings with constituents.
- A bar fridge within the Councillors’ Room, which will be maintained and stocked by Council, for Councillors’ official use.
- A driver and vehicle on those occasions when official/civic/ceremonial duties dictate such a mode of transport.

12.6 Postage Arrangements

Official Councillor correspondence is to be directed through Council’s own mail system. Where that is impractical Councillors are entitled to claim a monthly maximum reimbursement subject to substantiation equivalent to 50 standard letters.

12.7 Stationery, Office Supplies and Support

Councillors have access to the following support in performance of their role as elected members of Council:

- Standard office supplies (pens, rulers, staples, paper etc).
- 500 Business Cards (replacement on request) up to a maximum of **\$150** per annum. To include Councillor’s contact details as authorised and a colour photograph. Up to 300 personalised Christmas Cards, if required and

corporate presentation gifts (tie, scarf, etc). Additional generic Christmas Cards are to be purchased by the Councillor at the unit cost to Council.

- Personalised Councillor professional letterhead with colour photograph and their contact details will be provided **as well as paper supplies** up to a value of **\$250** per annum.
- Councillor letterhead supplied to Councillors and Councillor emails using Council email address will carry the following disclaimer:
"The statements made in this correspondence [email] are the views of the individual Councillor and do not necessarily reflect the views or the position of the Council or Management of Bayside Council".
- A suitable name badge.
- Tea, coffee and refreshments when carrying out civic duties in the Council premises during office hours.
- Suitable meal and refreshments at Council/Committee/Task Group/etc meetings. The standard of the meal will be determined by the Mayor in consultation with the General Manager.
- Corporate gifts for use on a Council related business trip or when receiving visitors. These will be of token value and managed in accordance with a policy on Gifts.
- Dedicated secretarial assistance in typing of Councillor correspondence and all other secretarial needs.
- A briefcase to the value of \$200 will be provided to each Councillor on request.
- Professional advice and assistance from Council officers in preparing media material (other than election campaign material) relevant to the function of civic office and in each case subject to the approval of the Mayor and General Manager.
- A photograph of the current Councillors is to be displayed in the public foyer of the Administration Building.
- A Recognition of Service plaque will be provided to each Councillor when they cease to hold office.

13 PROVISION OF ADDITIONAL EXPENSES AND FACILITIES FOR MAYOR

In addition to the previously detailed support in this Clause the Mayor and Deputy Mayor (when acting in the position of the Mayor) will be provided with:

- Mayoral vehicle of prestige class (Holden Caprice, **Toyota Prius** or similar vehicle) at the discretion of the Mayor of the day, fully maintained and complete with a car kit for a mobile phone and for use by the Mayor at all times;

- The cost of all telephone calls made from the Mayor's mobile telephone;
- An allotted space under the Council Administrative building;
- A petrol card for the Mayoral vehicle;
- Mayoral Chain of Office for official/civic/ceremonial use;
- A Mayoral office, suitably furnished and equipped;
- A liquor cabinet located in the Mayoral office, which will be maintained and stocked by Council for official use by the Mayor, and by the Deputy Mayor when acting in the position of Mayor.
- A suitably qualified and experienced secretary;
- Standard Mayoral letterhead for official correspondence;
- Handling of all Mayoral correspondence written in the course of Mayoral duties, including posting of mail and follow up correspondence.
- Tea, coffee, meals and refreshments when carrying out meetings in the course of official duties in the Council Chambers or Administration Centre.

Furthermore Council will provide a suitable furnished and equipped office for the Deputy Mayor.

14 PRIVATE USE OF COUNCIL EQUIPMENT AND FACILITIES

Councillors should not generally obtain private benefit from the provision of equipment and facilities, nor from travel bonus or any such loyalty schemes. However, it is acknowledged that incidental use of Council equipment and facilities may occur from time to time. Such incidental private use is not subject to a compensatory payment.

Where a Mayor or councillor's private use is more than incidental, the councillor shall compensate Council for the private use within 30 days of request. Council is entitled to deduct from the councillor's fees any amounts outstanding after 30 days from request.

Councillors must report the theft of any equipment issued immediately to the Police and to the General Manager or Manager Executive Services.

PART 4. OTHER MATTERS

15 ACQUISITION AND RETURNING OF FACILITIES AND EQUIPMENT BY COUNCILLORS

Councillors will have the option to purchase laptops, mobile phones, telecommunications equipment and the like, allocated to them, but owned by Council, at the cessation of their duties or following upgrading or replacement of equipment. These items are to be purchased at the written down value according to Council's accounting records, payout figure if the equipment is leased or agreed current fair market price as determined by the General Manager.

16 STATUS OF THE POLICY

This Policy, once adopted, is to remain in force until it is reviewed by the Council in accordance with the provisions of Sections 253 and 254 of the Local Government Act 1993.

This Policy will be reviewed on an annual basis in accordance with the provisions of Section 252(1) of the Local Government Act.

Amendments to the Policy will be carried out in accordance with the provisions of Section 253 of the Local Government Act.

17 ALLOWANCE (SALARY) SACRIFICE

"In accordance with the Australian Taxation Office Interpretative Decision 2007/205, Council may enter into an arrangement with a Councillor under which the Councillor agrees to forego all or part of their annual fee in exchange for the Council making contributions to a complying superannuation fund on their behalf."

Councillors should seek their own financial advice on the impact upon their personal financial and taxation benefits before nominating a deduction from their allowance/s into the nominated superannuation fund. These requests are to be directed to the General Manager.

No other allowance (salary) sacrifice benefits are available to Councillors.

18 THE ROLE OF COUNCILLOR

Section 232 of the Local Government Act defines the role of a Councillor. It provides that Councillors have two distinct roles; as a member of the governing body of the Council; and as an elected person. Councils as members of the governing body should work as part of a team to make decisions and policies that guide the activities of the Council. The role as an elected person requires Councillors to represent the interests of the community and provide leadership. Councillor Expenses and Facilities Policies should facilitate and assist Councillors to carry out their role.

Section 232 of the Act (What is the role of a Councillor?) states:

1. The role of a Councillor is, as a member of the governing body of the Council:

- to direct and control the affairs of the Council in accordance with this Act;
- participate in the optimum allocation of the Council's resources for the benefit of the area;
- to play a key role in the creation and review of the Council's policies and objectives and criteria relating to the exercise of the Council's regulatory functions;
- to review the performance of the Council and its delivery of services, and the management plans and revenue policies of the Council.

2. The role of a Councillor is, as an elected person:

- to represent the interests of the residents and ratepayers;
- to provide leadership and guidance to the community;
- to facilitate communication between the community and the Council.

Recognition of service

In recognition of long service as Councillor and/or Mayor, Councillors are eligible to receive particular Local Government NSW awards if their service meets certain criteria. Refer to Council's *Councillors' Recognition of Service Policy* for details.

19 ACCESS TO POLICY

The Government Information (Public Access) Act 2009 ("GIPA Act") gives a right to all persons to access Council documents as listed in the Act. These documents include annual reports, management plans, and Council policies including this Policy. The GIPA Act provides that the public is able to inspect such documents during office hours at the Council, and at no charge. This Policy is also available online.

20 RELEVANT PROVISIONS UNDER THE ACT AND REGULATION

Reporting

Section 428(2) (f) of the Act requires Council to include in its annual report:

- *The total amount of monies expended during the year on Mayoral fees and Councillors fees,*
- *The Council's policy on the provision of facilities for the use by Councillors and the payment of Councillors' expenses,*
- *Statement of the total amount of money expended during the year on the provision of such facilities and the payment of such expenses.*

In addition, Section 428(2) (r) of the Act states, "*such other information as the regulations may require*".

Clause 217 of the Regulation requires Council to include in its annual report the following information:

- (a) *details (including the purpose) of overseas visits undertaken during the year by Councillors, Council staff or other persons while representing the Council (including visits sponsored by other organisations).*

- (a1) *details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, Councillors in relation to their civic functions (as paid by the Council, reimbursed to the Councillor or reconciled with the Councillor), including separate details on the total cost of each of the following:*
 - (i) *the provision during the year of dedicated office equipment allocated to Councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in Councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),*
 - (ii) *telephone calls made by Councillors, including calls made from mobile telephones provided by the Council and from landline telephones and facsimile services installed in Councillors' homes,*
 - (iii) *the attendance of Councillors at conferences and seminars,*
 - (iv) *the training of Councillors and the provision of skill development for Councillors,*
 - (v) *interstate visits undertaken during the year by Councillors while representing the Council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*
 - (vi) *overseas visits undertaken during the year by Councillors while representing the Council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*
 - (vii) *the expenses of any spouse, partner or other person who accompanied a Councillor in the performance of his or her civic functions, being expenses payable in accordance with the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director-General from time to time.*
 - (viii) *expenses involved in the provision of care for a child of, or an immediate family member of, a Councillor, to allow the Councillor to undertake his or her civic functions.*

Disallowance of expenses and facilities

Clause 403 disallows the payment of a general expense allowance and for a vehicle to be made available for the exclusive use of a Councillor other than the Mayor.

Clause 403 (Payment of expenses and provision of facilities) states:

A policy under section 252 of the Local Government Act 1993 must not include any provision enabling a Council:

- (a) to pay any Councillor an allowance in the nature of a general expense allowance, or*
- (b) to make a motor vehicle owned or leased by the Council available for the exclusive or primary use or disposition of a particular Councillor other than a Mayor.*

21 OTHER NSW GOVERNMENT POLICY PROVISIONS

21.1 Division of Local Government Guidelines

Under section 252(5) of the *Local Government Act 1993* the Council expenses policy must comply with guidelines issued under section 23A of the Act.

21.2 Circulars to Councils

The policy must take into account the following Circulars.

- Circular 08/24* *Misuse of Council Resources**
- Circular 08/37 *Council Decision Making prior to Ordinary Elections*

As previously stated, these guidelines replace any previous versions of these Guidelines and Circular 04/60 *Policy on payment of facilities to the Mayor, Deputy Mayor and other Councillors*.

*Note: Circular 08/24 has been updated by Circular 10-24 and has also been taken into account.

21.3 The Model Code of Conduct for Local Councils in NSW (DLG)

The policy should be consistent with the *Model Code of Conduct for Local Councils in NSW, Department of Local Government - June 2008*. The following parts of the Code are particularly relevant to s252 policies:

Code of Conduct provisions relevant to this policy are;

"Use of Council resources"

10.12 *You must use Council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.*

10.14 *You must be scrupulous in your use of Council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.*

10.15 *You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.*

10.16 *The interests of a Councillor in their re-election is considered to be a private interest and as such the reimbursement of travel expenses incurred on election matters is not appropriate. You must not use Council letterhead, Council crests and other information that could give appearance it is official Council material for these purposes.*

10.17 *You must not convert any property of the Council to your own use unless properly authorised.*

10.18 You must not use Council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic threatening abusive or defamatory nature.

21.4 Councillor Induction and Professional Development Guide (DLG)

The policy provisions on training and development should integrate with any training and development policy, plan or program developed by the Council. The Division has produced a *Councillor Induction and Professional Development Guide* (September 2008) to assist Councils to develop these programs.

21.5 No Excuse for Misuse, preventing the misuse of Council resources (ICAC)

Councils should also be aware of and take account of the Independent Commission Against Corruption (ICAC) publication No Excuse for Misuse, preventing the misuse of Council resources (Guidelines 2) November 2002. This publication is available on the ICAC website at www.icac.nsw.gov.au.

Version History

Version	Release Date	Author	Reason for Change
0.0			New document

Appendix A - CLAIM FOR REIMBURSEMENT OF EXPENSES BY COUNCILLORS

I hereby submit my claim for reimbursement of expenses in accordance with the provisions of the Local Government Act and Council's Councillors' Expenses & Facilities Policy.

Councillor.....

Claim for reimbursement of expenses

Date	Nature of Business/ Function attended	Representing Mayor/Council		Nature of Claim	\$ or % For Private Use Above 5%	\$ or % Civic Duties	Amount Claimed
		Yes	No				

Claim for reimbursement of travel expenses

Date	Nature of Business/ Function attended	Method of travel	Pick-up Point*	Destination*	Distance in kms	Rate /km	Amount claimed

* Pick-up Point and Designation is required for Cabcharge.

Total amount claimed: \$_____

Please note:

- The form is to be lodged with Tax Invoices/Receipts attached in order for reimbursement to be processed.
- Claims must be lodged within one month of incurring.

I certify that the above expenses have been reasonably incurred in the performance of my role as a Councillor of Bayside Council and are due and payable to me in accordance with Council's Policy.

Signature: Date: / ... /

Appendix B - PROCESS FOR CLAIMING REIMBURSEMENT OF LEGAL COSTS

1. To whom do you make the application for reimbursement?

The application for reimbursement of legal expenses should be made in writing to the General Manager. The General Manager may ask for additional information and shall put such application before the Council in accordance with the Policy.

2. When can you make an application for reimbursement?

An application for reimbursement of legal expenses can be made having regard to rights and obligations in the Policy.

3. Requirement for previous application to the Attorney-General where acting as a witness before an ICAC hearing

If you have been called as a witness at a hearing (public or private) conducted by the Independent Commission Against Corruption (**ICAC**), you must have:

- 3.1. **Prior to or during your appearance as a witness at the hearing**, applied in writing to the Attorney General for financial assistance with respect to your legal representation, pursuant to section 52 of the *Independent Commission Against Corruption Act 1988*; and
- 3.2. Have been refused such financial assistance in part or full.

Note: Your application to the Attorney-General will need to include the full details of your financial situation and, provided your summons does not prevent you from doing so, the evidence you expect to give.

4. What other eligibility requirements need to be addressed in your application?

The application should address the following criteria where relevant:

- 4.1 specify which investigative body has conducted the relevant interview/s and hearing/s (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);
- 4.2 specify whether you are currently a Councillor or Mayor, or have been a former Councillor or Mayor (in which case you must have been acting in this office at any time from the March 2004 Local Government Elections onwards);

Note: See the definition of “investigative body” in the Policy.

- 4.3 state whether you are the subject of the investigation/s and/or the hearing/s and, if not, specify who is the subject (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);

Note: Where you are uncertain as to whether you are the subject of the investigation/s and/or the hearing/s, or as to whom the subject is, you should state this.

- 4.4 provide details of the request or summons to attend an interview/s or hearing/s by the relevant investigative body (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);
- 4.5 detail the legal expenses (including hourly rate charged) in part or in full incurred

in connection with attending the interview/s or hearing/s (public or private);

- 4.6 describe the nature of the information the investigative body has, through requesting an interview or your attendance at a hearing, sought from you (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);
- 4.7 describe how the information the investigative body has sought from you directly derives from your discharge of duties or your exercise of civic functions as the Mayor or as a Councillor (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);
- 4.8 state whether you are satisfied you discharged the duties or exercised the functions in question in good faith or with honest intent (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);
- 4.9 show that you have complied with any reasonable and lawful direction of your insurer and/or the General Manager (if there has been any such direction); and
- 4.10 provide evidence that the investigative body or Court has:
 - 4.10.1 confirmed in writing that it has completed the investigation/s or hearing/s or, where a Report is to be provided pursuant to the relevant legislation, published its Report; and
 - 4.10.2 confirmed in writing that the outcome of the legal proceedings is not substantially unfavourable to Council has been made with respect to you.

5. What documents need to be included with your application?

Where appropriate the following information should be provided:

- 5.1 A copy of the document requesting your attendance at an interview/s or hearing/s by the investigative body or Court, for example, a letter or summons (except where a suppression order or other such order is in force which prevents disclosure of this information – see paragraph 6);
- 5.2 If you have been called as a witness at a hearing (public or private) conducted by ICAC, a copy of your request to the Attorney-General for legal assistance pursuant to section 52 of the *Independent Commission Against Corruption Act 1988*, and a copy of the Attorney General's response;
- 5.3 Copies of any itemised invoices issued to you for legal expenses (fees charged for legal representation or legal advice including the hourly rate charged) in connection with the interview/s or hearing/s and any receipts for payment for such invoices;
- 5.4 Confirmation in writing from the investigative body or Court that it has completed its investigation/s or hearing/s or, where a Report has been prepared, a copy of the Report or the decision of the Court;
- 5.5 Where not included in the Report, or where a Report is not provided, written confirmation that the outcome of the legal proceedings is not substantially unfavourable to Council has been made with respect to you;
- 5.6 Any other documents relevant to the eligibility requirements outlined in paragraph 4.

6. What will happen where a suppression order or other order restricting disclosure of information applies?

- 6.1 Where you have been ordered by the investigative body or Court, for example, in your summons, not to disclose information which the Policy requires you to provide (see paragraph 4 and 5 above), you should refrain from including such information in your application.
- 6.2 Once any suppression order or other order has been lifted by the investigative body or Court, you should immediately provide the General Manager with the information previously omitted from your application on this basis.
- 6.3 The General Manager may not be able to consider your application where a suppression order or other order restricting disclosure of information applies until the suppression order or other order is lifted and information previously omitted is available where the information is required to approve the reimbursement.

7. Will Council need to pass a resolution regarding my application?

- 7.1 Yes, in accordance with Clause 11.7.2.5 Legal Assistance of this Policy “A Councillor must seek and obtain approval from Council for indemnity and reimbursement of any legal cost covered by this policy prior to legal expenses being incurred.
- 7.2 Any resolution by Council to provide indemnity and reimbursement needs to be consistent with this Policy and subject to the provisions of clause 11.7.2.1.
- 7.3 Where Council is not satisfied of the above, Council should provide reasons for its determination.

Appendix C - Electronic Equipment Acknowledgement

Appropriate Use

As a Council official of Bayside Council, I will use electronic communications and/or devices appropriately, and in accordance with the Code of Conduct and Electronic Communications Policy (both accessible from the Councillor Portal).

In particular, I am aware that:

- Council's Code of Conduct specifically includes a requirement that Council officials "must use resources ethically, effectively, efficiently and carefully in the course of (their) duties."
- Council's Electronic Communications Policy provides more specific guidance as to the use of Council's electronic communication devices.

I understand that it is my responsibility to seek advice regarding any questions that I might have regarding the use of Council's equipment prior to my using this device.

Standards of use

I acknowledge that the standards of use of electronic communications and devices are as outlined in the Electronic Communications Policy:

- Do not use devices or electronic communications in a way that is unlawful or in conflict with this and other Council's policies and procedures.
- Do not use devices or electronic communications in a way that damages Council's reputation.
- Do not access Council information that is not relevant to your official responsibilities.
- Do not interfere with others conducting Council business.
- Do not use Council's electronic devices for personal use (apart from insignificant use).

Software and applications

I understand that:

- I should report any known misuse of software or related documentation to the General Manager.
- Under Australian copyright law, unauthorised duplication and distribution of software can expose Council to extensive fines and claims for civil damages, and can expose me to personal fines together with possible detention and claims for civil damages.
- With Council owned and supplied electronic devices, I must only use on those devices copies of software legally acquired by the Council or myself, and I must comply with all known license conditions accompanying any software acquired or used.

Monitoring

I acknowledge that, in accordance with the Section 10 of the Workplace Surveillance Act 2005, surveillance of electronic communications and devices is undertaken by Council.

Enquiries

Enquiries to IT Helpdesk through Councillor Support or 9562 1757.

Ownership

I acknowledge that, if an electronic communication device is provided by Council, it remains the property of Bayside Council. The following electronic communications and other items have been allocated to me:

iPad	RCC No:	Serial No:
Mailbox key	No:	
Garage remote	User No:	
Taxi card	Yes Refer to separate CabCharge form	

Councillor's Name

Signature

Date

Councillor Support Officer

Extraordinary Council Meeting

14/09/2016

Item No	5.6
Subject	Adoption of Membership of Local Representation Committee
Report by	Evan Hutchings – Acting Manager Governance Liz Rog – Acting Manager Governance
File	(R) F16/200

Summary

The purpose of this report is to outline the process for the establishment of a Local Representation Committee for Bayside Council and to seek endorsement of the terms of reference.

Officer Recommendation

1. That the Bayside Council Local Representation Committee be established in accordance with the details contained within the report and operate under the Terms of Reference attached to the report.
-

Background

Following the Proclamation creating Bayside Council, the Administrator is required to establish a Local Representation Committee during Phase 1, being the period up to the election of the new Council in September 2017. The key responsibilities of the Local Representation Committee will be:

- Providing advice on priority programs and projects, and emerging issues
- Providing input to the operational plans for 2017/2018
- Advising on the communication and engagement plan for the community
- Providing input to the statement of vision and priorities
- Assisting to engage communities and partners in planning for the new Council.

It is proposed that the Local Representation Committee be comprised of up to 22 members to be appointed by the Administrator and meet in the evening of the first Wednesday of each month.

Councillors of the former Botany and Rockdale City Councils during the 2012-2016 term only are eligible for membership of the Committee. The Administrator will also determine the chairperson in consultation with the Committee. The Committee will operate until a date to be determined by the Administrator, in preparation for the 2017 Local Government Elections.

The attached Draft Terms of Reference will provide the framework for the Local Representation Committee. The names of the members are to be inserted once they have

been determined. In addition, a set of high level principles are to be established in consultation with the members of the Local Representation Committee to provide further guidance to the Local Representation Committee in the local context.

Consultation

The Local Representation Committee will help to facilitate Community consultation and will complement the other community engagement activities of Council.

Conclusion

The establishment of the Bayside Council Local Representation Committee will enable perspectives of communities across the new council area to be understood and will help to shape the new Council. The Local Representation Committee will be consulted on a range of local issues and will assist in the process of bringing communities together to help plan for the future of the new council.

Financial Implications

Included in existing approved budget.

Members of the Local Representation Committee will be remunerated at a level equivalent to the schedule of payments for Joint Regional Planning Panel members and based on attendance at each meeting.

Community Engagement

Not required.

Terms of Reference Local Representation Committee

DRAFT 14 September 2016



© Bayside Council

Local Representation Committee

Terms of Reference

File: F16/200 Document: ??/????

Adopted:

Class of document: Council Policy / Administrative Policy

Enquiries: A/Manager - Governance

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1 Name

The name of the committee is the Bayside Council Local Representation Committee.

2 Purpose

The purpose of the Local Representation Committee is to provide advice to the Administrator on local views and issues. This includes:

- Providing advice on priority programs and projects, and emerging issues
- Providing input to the operational plans 2017-18
- Advising on the communication and engagement plan for the community
- Providing input to the statement of vision and priorities
- Assisting to engage communities and partners in planning for the new Council.

3 Chairperson and Minutes

The Administrator will determine the Chairperson of the Local Representation Committee.

Secretariat support will be provided to prepare agendas and minutes of each meeting.

4 Membership

It is proposed that the Local Representation Committee be comprised of up to 22 members to be appointed by the Administrator and meet in the evening of the first Wednesday of each month.

Councillors of the former Botany and Rockdale City Councils during the 2012-2016 term only are eligible for membership of the Committee.

The Committee will operate until a date to be determined by the Administrator, in preparation for the 2017 Local Government Elections.

The Interim General Manager and other council staff may attend Local Representation Committee meetings, on the invitation of the Administrator.

5 Reporting

The Local Representation Committee will be appointed by the Interim General Manager, and report to the Administrator in his role as the governing body.

6 Meeting Schedule

The Local Representation Committee will meet monthly, with capacity for additional meetings as needed.

Meeting schedules will be determined by the Administrator, in consultation with Local Representation Committee members.

7 Principles

The following principles provide guidance to communities, Administrators, interim General Managers and staff about the way the NSW Government expects the implementation of new councils to be conducted.

These principles also provide high-level guidance for the Local Representation Committee.

1. **Respect for our history** – Respect and honour the history and traditions of the former Councils.
2. **Community and residents** – Focus on service delivery continuity for residents, the community and other stakeholders during the transition.
3. **Collaborative and cooperative transition** – Work collaboratively to lead, plan and implement a smooth and timely transition.
4. **Integrity and mutual respect** – Act with integrity, mutual respect and professionalism at all times, trusting our colleagues.
5. **Prepared for incoming Councillors** – Establish a professional and supportive environment to work towards the newly elected council, based upon the implementation of a sound transition plan.
6. **Open and clear communications** – Engage in open, clear and consistent communications (no back channels) to minimise uncertainty for all stakeholders impacted by the transition.
7. **Respect, support and involve employees** – Respect and value employees.
8. **Fact-based decision-making** – Make decisions based on objective, data-based criteria and on merit.
9. **A ‘best of both’ or enhanced approach** – Select the most appropriate existing (or enhanced) services, systems, processes and policies from either council to minimise effort during the transition phase.
10. **A structured approach, with flexibility** – Focus initially on ‘transition’ not optimisation, using interim and pragmatic solutions to ensure seamless service delivery. Deliver the transition in a phased, disciplined and robust manner, leveraging consistent tools and processes across all areas of the business. We will be flexible and adaptable and continuously review and evaluate the transition plans.
11. **Represent impartially** – When representing the Council or Administrator, do so impartially with the Council’s image and position taking priority over personal interests.

8 Code of Conduct

The Bayside Council Code of Conduct applies to the members of the Local Representation Committee.

9 Remuneration of Members

Members of the Local Representation Committee will be remunerated at a level equivalent to the schedule of payments for Joint Regional Planning Panel members and based on attendance at each meeting.

10 Media Liaison

The Administrator is the designated media spokesperson for the new council.

11 Meeting Arrangements

Arrangements for meetings will be as follows:

- the agenda and supporting material will be circulated at least five days prior to a meeting
- any supporting material or papers that are confidential will be clearly marked as such and remain confidential to members
- any general business items tabled during meetings will be short, requiring no more than five minutes' presentation or discussion
- meetings will be run in a fair and independent manner and support open and constructive dialogue
- minutes will be circulated within seven days of each meeting.
-

12 Standard Agenda Items

Agendas will be determined by the Chairperson. As a minimum, agendas will include the following standard items:

- meeting open and apologies
- confirmation of previous minutes and matters arising
- reports on priority actions
- reports and advice on priority programs and projects and emerging issues
- specific items varying from meeting to meeting
- review of relevant meeting actions or follow up requirements
- formal close.

13 Related documents

List the relevant legislation, Council policies and procedures relevant to the policy.

14 Version history

Include the details of the original adoption / approval and subsequent changes.
Version 1.0 is the initial adopted/approved version.

Version	Release Date	Author	Reason for Change
0.0		Evan Hutchings Liz Rog	New document

Extraordinary Council Meeting

14/09/2016

Item No	5.7
Subject	Minutes of the former City of Botany Bay Traffic Committee held 5 September 2016
Report by	Evan Hutchings – Acting Manager Governance Liz Rog – Acting Manager Governance
File	(R) F16/200

Summary

To submit minutes of the former City of Botany Bay Local Traffic Committee, held on 5 September 2016, for adoption.

Officer Recommendation

1. That the minutes of the meeting of the former City of Botany Bay Local Traffic Committee dated 5 September 2016 attached to the report, be adopted.
-

Background

A meeting of the former City of Botany Bay Local Traffic Committee was held 5 September 2016. In view of the Proclamation of Bayside Council on 9 September 2016, the adoption of the related minutes by the Council of the City of Botany Bay was unable to be facilitated.

Accordingly, the minutes (attached) are submitted to the meeting of Bayside Council for adoption.

The former Rockdale City Council Traffic Committee minutes were adopted by the former Council at a meeting held 7 September 2016, prior to Proclamation of Bayside Council on 9 September 2016.

Financial Implications

Not applicable

Community Engagement

Not applicable



LOCAL TRAFFIC COMMITTEE MINUTES

5 SEPTEMBER 2016

**A meeting of the Local Traffic Committee
of Botany Bay City Council
was held on 5 September 2016
at Conference Room One, Council Administration Building,
141 Coward Street, Mascot 2020
commencing at 9:35 am.**

**Ms Lara Kirchner
GENERAL MANAGER**

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**A MEETING OF THE LOCAL TRAFFIC COMMITTEE OF BOTANY
BAY CITY COUNCIL WAS HELD ON 5 SEPTEMBER 2016 IN
CONFERENCE ROOM ONE, COUNCIL ADMINISTRATION
BUILDING, 141 COWARD STREET, MASCOT 2020, COMMENCING
AT 9:35 AM.**

1 ATTENDANCE

PRESENT:

Constable Alexander Weissel, Botany Bay Police Local Area Command
Mr Frank Passarelli, State Transit Authority
Mr Brandon Morson, Roads and Maritime Services
Mr Stuart Dutton, Director of City Infrastructure, City of Botany Bay
Mr Steve Poulton, Manager of City Infrastructure, City of Botany Bay
Mr Michael Lee, Traffic Engineer, City of Botany Bay
Mr Ibad Ur-Rahman, Assistant Traffic Engineer, City of Botany Bay

2 APOLOGIES

Apologies were received from: Councillor Ben Keneally (Mayor); Councillor Greg Mitchell; Ms Lara Kirchner, General Manager, City of Botany Bay; Mr Michael Daley, State MP for Maroubra; and Mr Ron Hoenig, State MP for Heffron.

COMMITTEE RECOMMENDATION

THAT: The apologies be received and a leave of absence be granted.

3 CONFIRMATION OF MINUTES

COMMITTEE RECOMMENDATION

THAT: The Minutes of the Local Traffic Meeting held on 1 August 2016 be received and confirmed as a true record of proceedings.

4 DECLARATION OF INTERESTS

There were no declarations of interest.

5 REPORTS

5.1 BOTANY ROAD - 'NO STOPPING, POLICE VEHICLE EXCEPTED' ZONE

File No: ROAD-25.10

COMMITTEE RECOMMENDATION

THAT: Council write to RMS to request the implementation of the Council's proposed traffic signage as Attachment 2.

5.2 BAXTER ROAD, MASCOT - PROPOSED PERMANENT CUL-DE-SAC AND ASSOCIATED TRAFFIC SIGNAGE

File No: ROAD-15

COMMITTEE RECOMMENDATION

THAT: The RMS approved Traffic Management Plan for the proposed permanent road closure in Baxter Road be endorsed.

5.3 DISABILITY PARKING ZONE OUTSIDE PAGEWOOD PUBLIC SCHOOL

File No: S16/36

COMMITTEE RECOMMENDATION

THAT: The regulatory signs for a disability parking zone in Dalley Avenue outside Pagewood Public School be approved.

5.4 MINOR TRAFFIC FACILITIES

File No: S12/109

COMMITTEE RECOMMENDATION

THAT: The "No Stopping" signage at the following locations be installed:

- Intersection of St Helena Parade and Mascot Drive, Eastlakes (Attachment 1);
- Intersection of Barber Avenue and Hearne Close, Eastlakes (Attachment 2);
- Intersection of Holloway Street and Green Street, Pagewood (Attachment 3); and
- Driveway access to 9 Nilson Street, Hillsdale (Attachment 4).

6 GENERAL BUSINESS

Discussions were held by the Committee Members in relation to the Work Zone application for 200 Coward Street, Mascot.

7 CLOSURE OF LOCAL TRAFFIC COMMITTEE MEETING

Mr Stuart Dutton closed the meeting at 10:03 am.

CONFIRMED.....
Chairperson of Committee

Extraordinary Council Meeting**14/09/2016**

Item No	5.8
Subject	Formation of the Bayside Traffic Committee
Report by	Stuart Dutton – Director City Infrastructure Jeremy Morgan – Acting Director City Operations
File	(R) F08/887

Summary

This report recommends the formation of the Bayside Traffic Committee.

Officer Recommendation

1. That the Bayside Traffic Committee be established under delegation from the Roads & Maritime Services and comprises the following formal members:
 - the convenor and representative of Council, being the General Manager or nominee;
 - one representative of the NSW Police from each Local Area Command;
 - one representative of the Roads and Maritime Service;
 - the Local State Member of Parliament (MP) or their nominee from each Electorate.
 2. That the convenor confirms the names of members with the above bodies, and invites other appropriate advisors to attend.
 3. That the Committee meets on a monthly basis, except in January.
-

Background

Under the Roads & Maritime Services Delegation to Councils for the Regulation of Traffic, the functions delegated to Council are:

- authorisation of prescribed traffic control devices covered under Division 1 of Part 4 (Sections 50 to 55) of the Road Transport (Safety and Traffic Management) Act 1999;
- regulation of traffic under Division 2 of Part 8 (Sections 116 to 119) of the Roads Act;
- authorisation of special event parking schemes under Division 2 of Part 5 (Clauses 122 and 123) of the Road Transport (Safety and Traffic Management) Regulation 1999 on public roads other than classified roads.

The Council may sub-delegate their powers to Councillors, the General Manager or an employee of the Council for Items 1 and 3 above.

The Council may not sub-delegate Item 2.

The Council must refer all traffic related matters to the Local Traffic Committee prior to exercising its delegated functions.

The Local Traffic Committee is made up of the following formal members:

- one representative of Council;
- one representative of the NSW Police from each Local Area Command;
- one representative of the Roads and Maritime Service;
- the Local State Member of Parliament (MP) or their nominee from each Electorate.

State representatives are only permitted to vote on members affecting their relevant Local Area Command or Electorate. Council's representative may be any Councillor or Council Officer. The Council representative may be a sub-delegate if Council has formally approved this.

The convenor of the meeting is to be a Council representative. The convenor may be Council's voting member, or may be an additional non-voting member of the committee.

Advisors may be invited to attend the meetings as non-voting members, and may include representatives for Road Safety; Ministry of Transport; Fire Brigade; Ambulance Service; Bus Operators; pedestrian council or other traffic and road safety experts.

It is recommended that, in the circumstances, the convenor of the Bayside Council Traffic Committee be the General Manager, who may nominate a Council officer to chair day-to-day meetings.

It is recommended that meetings be held on a monthly basis, with no meetings in January.

Financial Implications

Not applicable.

Community Engagement

Not applicable.

Extraordinary Council Meeting

14/09/2016

Item No 5.9
Subject **Joint Regional Planning Panel Representation**
Report by Evan Hutchings – Acting Manager Governance
 Liz Rog - Acting Manager Governance
File (R) F16/200

Summary

The purpose of this report is to determine the delegates to represent Bayside Council on the Joint Regional Planning Panel.

Officer Recommendation

1. That the delegates and alternate delegates of the former City of Botany Bay and Rockdale City Councils be endorsed as the delegates for Bayside Council on the Joint Regional Planning Panel for future meetings.
-

Background

Following the proclamation of Bayside Council, it is necessary to advise the Panel Secretariat for the Joint Regional Planning Panel of the newly created Council's delegates to the panel.

Both former City of Botany Bay and Rockdale City Councils had two delegates and two alternate delegates representing their respective Council's on the Panel.

It is recommended that for continuity, those delegates and alternate delegates continue at the existing remuneration, until such time as any alternate arrangements to the Panel are formally advised by the Joint Regional Planning Panel Secretariat.

Financial Implications

Included in existing approved budget

Community Engagement

Not applicable

Extraordinary Council Meeting

14/09/2016

Item No 5.10
Subject **Interim Senior Staff Structure**
Report by Meredith Wallace – Interim General Manager
File (R) F16/200

Summary

To confirm Bayside Council's interim senior staff structure.

Officer Recommendation

1. That the following positions and staff be confirmed as the interim senior staff structure for Bayside Council:
 - Director City Operations – Karin Hartog
 - Director City Infrastructure – Stuart Dutton
 - Director Planning and Environment – Heather Warton
 - A/Director City Planning and Development – Michael McCabe
 - A/Director Corporate and Community – John Paterson
 - A/Director Corporate and Community – Fausto Sut
 2. That the interim senior staff structure referred to in (1) above continue until finalisation of a new management structure and clarification of reporting lines, to be the subject of a report to the next Council meeting.
-

Background

Bayside Council has developed its interim management structure and senior staff members have been tasked with ensuring the success of the new organisation. Proclamation of Bayside Council on 9 September 2016 appointed the Administrator – Greg Wright; Interim General Manager – Meredith Wallace and Deputy General Manager – Lara Kirchner.

Proclamation also included the transfer of senior staff of any position that, immediately before the amalgamation day, was a senior staff position of a former council. The following positions and staff compose the interim senior staff structure:

- Director City Operations – Karin Hartog
- Director City Infrastructure – Stuart Dutton
- Director Planning and Environment – Heather Warton
- A/Director City Planning and Development – Michael McCabe
- A/Director Corporate and Community – John Paterson
- A/Director Corporate and Community – Fausto Sut.

These former City of Botany Bay and Rockdale City Councils' Directors have key roles in the interim structure for the new Council.

It is anticipated that finalisation of a new management structure and clarification of reporting lines will be subject of a report to the next Council meeting.

Financial Implications

Included in existing approved budget

Community Engagement

Not required