

# Code of meeting practice

POLICY NO AND TITLE	<b>1.1.2</b>	Behaviour of Councillors and staff policy
PROCEDURE	1.1.2 (b)	Code of meeting practice
VERSION AND DATE ADOPTED	3	23 December 2008
RESPONSIBLE OFFICER		General Manager

## 1. Title

The title of this Code is the “Bega Valley Shire Council Code of Meeting Practice 2008” (the “Code”).

## 2. Introduction

Meetings of the Council are the primary means by which it makes its decisions. Councillors, the public and Council staff are entitled to expect that Council meetings will enhance the decision making process and that legislative provisions and policy decisions (regarding meetings) will not unnecessarily fetter that process.

## 3. Objectives

The objectives of this Code are to:-

- facilitate good meeting practice which in turn will promote sound decision making and enhance the Council’s public image; and
- provide in a single comprehensive and understandable document the more commonly used legislative provisions, Council policy decisions and other requirements as an aid to the conduct of all Council meetings, Committee meetings and the decision making process.

## 4. Commencement

The Code commences on the date of its adoption by the Council.

## 5. Authorising Provision and Application

5.1 This Code is made under the provisions of Division 1 of Part 2 of Chapter 12 of the Act. LGA S360 (2)

5.2 Council meetings and Committee meetings, where all the members of the Committee are Councillors, must be conducted in accordance with this Code. LGA S360 (3)

- 5.3 Any alleged breach of this Code may be referred to Council's Conduct Review Panel established under the Council's Code of Conduct. The Conduct review Panel is to consider the alleged breach as though it were a breach of the Code of Conduct. If the allegation is substantiated the Committee may recommend to a subsequent meeting of the Council that the person be sanctioned or may make some other appropriate recommendation as provided for by the Code of Conduct.

## 6. Amendment of the Code

This Code may only be amended by means of a new Code adopted after putting in place the procedures contained in Division 1, Part 2 of Chapter 12 of the Act except where an amendment is proposed which:-

- reflects a change to the Act or Meetings Regulation;
- reflects a decision of the Council about a matter or thing which it is expressly authorised by the Act or Meetings Regulation to decide and that matter or thing is included in a clause or clauses of this Code which in turn expressly authorises an amendment to it by resolution of the Council.

In circumstances of these exceptions this Code will be altered or amended accordingly.

## 7. Rules of Legislative Assembly

Where at a Council or Committee meeting matters arise which are not provided for in this Code, resort shall be had to the rules, forms and usages of the Legislative Assembly of New South Wales in force for the time being, so far as they are applicable to the proceedings of the Council or Committee. It is noted parliamentary privilege does not apply to Council meetings.

## 8. Abbreviations, Definitions and Interpretation

- 8.1 In this Code the Dictionary to the Act and Regulation 231 of the Local Government (General) Regulation 2005 have effect.
- 8.2 In the event of any inconsistency between the Code and the Act or the Local Government (General) Regulation 2005, the Act or Local Government (General) Regulation 2005 (as the case may be) prevails to the extent of the inconsistency.
- 8.3 The following words and abbreviations have the following meanings for the purposes of this Code.
- "the Act" means the Local Government Act 1993 (as amended).
  - "the/this Code" means the Bega Valley Shire Council Code of Meeting Practice 2003.
  - "Committee" means a Committee of the Council established under Reg 260 of the Local Government (General) Regulation 2005 or the Council when it has resolved itself into a Committee of the Whole.

- “the Council” means the Council of the Bega Valley Shire
- “Councillor” means a person elected or appointed to Civic Office as a member of the governing body of Council and includes the Mayor.
- “General Manager” means the General Manager of the Council.
- “Leave of the meeting” means with the consent of a majority of those Councillors present at a meeting.
- “LGA” means the Local Government Act 1993 as amended and will be followed by a reference to a section of that Act. For example **LGA S10B**.
- “Meeting” means a meeting of the Council or a Committee and includes Ordinary, Extraordinary and Standing Committee meetings.
- "Regulation" means the Local Government (General) Regulation 2005.
- "R" means the Local Government (General) Regulation 2005 and will be followed by a reference to a clause of that Regulation. For example **R CI 243**.

## 9. Date, Time and Place of Meetings

### 9.1 Ordinary Meetings

At the meeting at which the Mayor is elected in each year the Council will by resolution appoint the date, time and place of its Ordinary Meetings in keeping with this sub-clause.

Council's Ordinary meetings will be held every third Tuesday, commencing at 2:00pm except January and December when the meeting day may vary.

### 9.2 Extraordinary (Special) Meetings

Extraordinary meetings of the Council will be held at the time, date and place specified in the meeting notice.

### 9.3 Standing Committees

Standing Committees of the Council will be held every third Tuesday, commencing during each Ordinary meeting of the Council, except January and December when the meeting day may vary.

### 9.4 Public Holidays/Easter

If a meeting of the Council or a Standing Committee determined by Clauses 9.1 or 9.3 of this Code falls on a public holiday then the meeting is to be scheduled for the next working day.

Special regard shall be had when scheduling meetings immediately following Easter in each year to ensure that there is adequate opportunity for consultation between Councillors and staff in relation to matters being presented to a meeting.

### **9.5 Open to Public**

The public is welcome at and encouraged/entitled to attend all meetings other than any part of a meeting that the Council or Committee has resolved to close to the public.

**LGA S10A**

### **9.6 General Manager**

The General Manager is entitled to attend all meetings of the Council but any meeting at which his or her terms of employment or standard of performance are being discussed may be held without him or her being present.

**LGA S376**

## **10. Notice of Meetings**

### **10.1 General**

The General Manager will send to each Councillor at least three days before each meeting a notice specifying the time, date and place of the meeting and an Agenda and Business Paper of the business proposed to be transacted by electronic transfer on equipment provided by Council.

**LGA S367 (1)**

**R CI 232**

Notice of a meeting, the Agenda for a meeting and the Business Paper may be given to a Councillor in electronic form, but only if all Councillors have facilities to access the information in that form or in hard copy if requested by the Councillor.

**LGA S367 (3)**

In the normal course of events notice of the meeting and the Agenda and Business Paper will be delivered to Councillors four clear days before the meeting.

Meetings of the Council or a Council Committee must be publicised in a newspaper circulating in the area. The notice must specify the time and place of the meeting and may include more than one meeting.

**LGA S9 (1)**

**R CI 232**

### **10.2 Extraordinary Meetings**

Notice of less than three days may be given of an Extraordinary Meeting called in an emergency.

**LGA S367 (2)**

### **10.3 Media Copies of Business Papers**

The General Manager will also deliver an electronic copy of the notice of the meeting and Agenda and Business Paper (except a confidential Business Paper) to the media as near as practicable to the time it is given to Councillors.

### **10.4 Public Copies of Business Papers**

The Council will make available for the public at its offices and libraries, copies of the Agenda and Business Paper for meetings (except confidential Business Papers) and they will be available as nearly as possible to the time they are given to Councillors.

### **LGA S9**

## **11. Business of Meetings**

### **11.1 Order of Business**

The Order of Business at Ordinary meetings will be the order determined by the Council by resolution at the meeting at which it elects the Mayor, and is, for the time being:-

The order of business as established by this Code is:-

- Confirmation of Minutes Ordinary Meeting (date)
- Confirmation of Minutes Extraordinary Meeting (date)
- Confirmation of Minutes (Closed Session) (date)
- Apologies and Requests for Leave of Absence
- Declarations
- Matters to be considered in Closed Session: Determination
- Deputations
- Petitions
- Mayoral Minutes
- Adjournment to Committee Meetings
- Committee Reports (including Standing Committee and Specific Purpose Committee reports)
- Staff reports
- Rescission/Alteration Motions
- Notices of Motion

- Questions on Notice and Responses to Questions without Notice from previous meeting
- Questions without Notice
- Closed Session Adjournment
- Adoption of decisions reached in Closed Session
- Resolutions to declassify reports considered in closed session

#### **R CI 239**

The Order of Business under this sub-clause may be altered by resolution of the Council. A motion proposing an alteration to the Order of Business may be moved at any time without prior notice and only the mover may speak before the motion is put.

### **11.2 Order of Business – Other Meetings**

The Order of Business for meetings other than Ordinary meetings is to be the same as the Order of Business for Ordinary meetings with any necessary adaptations or modifications or as provided for elsewhere in this Code.

### **11.3 Agenda and Business Papers**

The General Manager will ensure that the Agenda and Business Paper for a meeting includes all matters to be dealt with. The Agenda and Business Paper for an Extraordinary meeting will only deal with matters stated in the notice of the meeting.

#### **R CI 240**

The General Manager must not include in the Agenda any business which in his or her opinion is unlawful or would be unlawful if implemented. The General Manager must report such exclusions to the next meeting of the Council.

#### **R CI 240**

### **11.4 Urgent/Other Business**

11.4.1 Council will not transact any business at a meeting unless:-

- notice of the business has been properly given, or
- it is business which can be considered without notice being given as provided for under the Act, the Meetings Regulation, or this Code, or
- a motion has been passed which enables Council to consider an item of business of which no notice has been given and the business proposed to be considered is ruled by the Chairperson to be of great urgency.

A motion under this Clause can be moved without notice and only its mover can speak to it.

#### **R CI 241**

11.4.2 If, in the opinion of the General Manager a motion proposed under this clause has legal, strategic, financial or policy implications or ramifications which should be taken to account by the meeting, the General Manager is to be given the opportunity to make his or her opinion known to the meeting. In these circumstances the General Manager is entitled to put forward a recommendation, including a recommendation to defer the matter for further report.

## 12. Closed Meetings

12.1 Reports considered in open Council may reference a confidential attachment that may be considered in closed session. Consideration of that matter may be deferred through suspension of standing orders to enable discussion of the items contained on the confidential attachment.

Council may resolve to go into closed session to consider items that may be contained in a report presented in open Council that, on balance, would be appropriate to discuss in confidence.

12.2 The Council or a Committee of the Council (including a Committee appointed by the Council under Section 355 of the Act), may close to the public any part of its meeting which comprises discussion on any matters listed below or the receipt or discussion of any of the information so listed.

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

### **LGA S10A (1) & (2)**

12.2 A meeting may also close to the public discussion on a motion to close another part of the meeting to the public.

**LGA S10A (3)**

12.3 A meeting may also allow members of the public to make representations before any part of the meeting is closed to the public, as to whether a part of the meeting should be closed.

**LGA S10A (4)**

12.4 A representation at a Council meeting under this clause can only be made for a period of up to five minutes immediately after the motion to close the part of the meeting is moved and seconded.

**R CI 252**

12.5 A meeting is not to remain closed during the discussion of anything referred to above except for:-

- so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security; and
- if the matter is other than a personnel matter or the hardship of a resident or ratepayer or a trade secret – unless the meeting is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

**LGA S10B**

12.6 A meeting is not to be closed during the receipt and consideration of information or advice concerning litigation, or that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege unless the advice covers legal matters that are:-

- substantial issues relating to a matter in which the council or committee is involved; and
- clearly identified in the advice; and fully discussed in that advice.

**LGA S10B**

12.7 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 person may misinterpret or misunderstand the discussion, or
- the discussion of the matter may:

cause embarrassment to the council or committee concerned, or to Councillors or to employees of the Council, or

cause a loss of confidence in the Council or committee.

In deciding whether part of a meeting is to be closed to the public, the Council or Committee concerned must have regard to any relevant guidelines issued by the Director-General.

**LGA S10B (4) & (5)**

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

**R CI 253**

12.9 This clause of the Code does not apply to Working Groups, comprising Councillors and officers or other members of the public (including officers of Government Departments or Agencies) appointed by the Council. Working Groups appointed by the Council are not to be delegated any power or authority by the Council.

12.10 Council may resolve to declassify a report considered in closed session after determination of that matter. Declassified material will be subject to privacy and commercial in confidence provisions.

## 13. Quorum

13.1 The quorum for an Ordinary or Extraordinary meeting of the Council is a majority of the Councillors who hold office for the time being not including a Councillor suspended from office.

**LGA S368**

**R CI 233**

13.2 The quorum for specific purpose (or other) Committees is a majority of the membership of the Committee unless the Council by resolution determines that a quorum is to be a different number.

13.3 No business can be transacted at a meeting unless a quorum is present.

13.4 A Councillor cannot participate in a meeting unless he or she is personally present.

**R CI 235**

## 14. Chairperson of Meetings

### 14.1 Council Meetings

The Mayor or at the request of or in the absence of the Mayor, the Deputy Mayor will preside at meetings of the Council.

**LGA S369 (1)**

14.2 In the absence of the Mayor and the Deputy Mayor the meeting will as its first item of business elect a Councillor (under the provisions of the Act) to chair the Meeting.

**LGA S369 (2)**

**R CI 236**

### 14.3 Committee/Other Meetings

The Chairperson of a Committee must be:-

- the Mayor; or
- a member of the Committee elected by the Council (if the Mayor does not wish to be the Chairperson); or
- a member of the Committee elected by the Committee, (if the Council does not elect a Chairperson).

#### **R CI 236**

The Chairperson of a Committee will preside at meetings of the Committee. In the absence of the Chairperson and Deputy Chairperson (if any) then a Councillor elected by the meeting will preside.

#### **R CI 236**

### 14.4 Precedence of Chairperson

The Chairperson of a Council meeting has precedence and when he or she rises to speak during the meeting:-

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

#### **R CI 237**

## 15. Adjournment of Meetings

15.1 The Councillors present at any meeting may from time to time by resolution adjourn the meeting.

15.2 Except where all Councillors are present, or where a meeting is adjourned to a subsequent hour on the same day, the General Manager will email or send by post a written notice detailing the adjournment of the meeting. In these circumstances the provisions of Clause 10 of this Code relating to the length of notice will not apply.

15.3 A meeting of the Council must be adjourned if a quorum is not present within half an hour of the time designated for the holding of the meeting or at any time during the meeting.

In these circumstances the meeting must be adjourned to a time, date and place fixed by the Chairperson, or in his or her absence, by the majority of Councillors present, or failing that, by the General Manager.

The General Manager must record in the 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 together with the names of the Councillors present.

**R CI 233**

15.4 The Chairperson may adjourn a meeting for a period of not more than fifteen minutes if disorder occurs at the meeting.

**R CI 257**

If a Councillor is speaking to a motion or amendment when the Chairperson adjourns the meeting because of disorder the Councillor speaking has the right to be the first speaker heard when the meeting is resumed.

15.5 Council and Standing Committee meetings are to conclude by 6:30pm. One extension of 45 minutes may be put in place by leave of the meeting. If a meeting does not complete its scheduled business it is to be adjourned to a subsequent day.

## 16. Motions

16.1 A motion or amendment cannot be debated unless it is seconded, within the powers of the Council, relevant to an item of business and worded so that the meaning is clear and unambiguous.

A Mayoral minute (if the Chairperson is the Mayor), a motion of dissent from a ruling of the Chairperson, or a motion that the question be now put need not be seconded.

**R CI 246**

16.2 A motion or amendment need not be in writing unless the Chairperson directs.

The Councillor seconding a motion or amendment is deemed not to have spoken on the motion unless the Councillor actually speaks on the issues raised by the motion.

A Councillor moving a motion or amendment will be given the opportunity to exercise his or her right to speak to it immediately after it is seconded. If the opportunity to speak to the motion or amendment is not taken by its mover immediately after it is seconded the mover is deemed to have reserved his or her right to speak to it in addition to any right of reply.

A motion or amendment may be put to the vote by the Chairperson without discussion or debate provided there is no objection from any Councillor present.

## 17. Amendments

17.1 If an amendment has been rejected a further amendment can be moved, and so on, but no more than one motion and one proposed amendment can be before a meeting at any one time.

**R CI 247**

It is permissible during debate on an amendment for a further amendment to be foreshadowed. Any foreshadowed amendment will not be considered until the amendment before the meeting is dealt with.

An amendment must not be in negative terms nor be a negation of the wording of the motion.

## 18. Motions and Amendments - Withdrawal

Motions and amendments may be withdrawn by the mover with the consent of the seconder.

## 19. Motions of Dissent

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 business until a decision is made on the motion of dissent.

**R CI 248**

19.2 Only the mover of a motion of dissent and the Chairperson have the right to speak before the motion is put and the mover of the motion does not have a right of reply.

**R CI 248**

19.3 If a motion of dissent is carried the Chairperson will proceed with the suspended business as though the ruling dissented from had not been given including the restoration of any business or motion which had been discharged by the Chairperson as being out of order.

**R CI 248**

## 20. Mayoral Minutes/Announcements

20.1 The Mayor is entitled to move an official minute (a Mayoral minute) signed by him or her without notice on any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.

20.2 A Mayoral Minute takes precedence over all business on the Council's Agenda and the Mayor may move its adoption without the motion being seconded (but only if the Chairperson is the Mayor).

20.3 The Mayor is entitled to make announcements on any matter he or she considers to be of interest or importance to the Council. No discussion on announcements is permitted.

Announcements by the Mayor can be made at any convenient time during Ordinary meetings of the Council, but preferably at the commencement of the meeting.

## 21. Closure Motion

21.1 If two Councillors, at least, have spoken in favour, and two Councillors, at least, have spoken against a motion or an amendment, any Councillor may move that the motion be now put.

21.2 A Councillor may also move that the motion be now put if the mover of a motion or an amendment has spoken in favour of it and no Councillor indicates an intention to speak against it.

21.3 The Chairperson will immediately put to the vote a motion that the motion be now put without it being seconded and without debate.

21.4 If a motion that the motion be now put is passed the Chairperson must, after the mover of the original motion has exercised his or her right of reply, immediately put the question to the vote without further debate.

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

#### **R CI 250**

## 22. Notices of Motion

22.1 A Councillor may submit a notice of motion for placing on the Agenda for consideration at a meeting.

22.2 Notes supporting a notice of motion, limited to half a page, provided by the Councillor intending to move it are to be included and form part of the Agenda or associated Business Paper. A standard template for the presentation of a Notice of Motion is provided as an attachment to this Code.

22.3 In the absence of the Councillor who has given notice of a motion: -

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

#### **R CI 245**

If a notice of motion submitted by a Councillor is, in the opinion of the General Manager, unlawful or would be unlawful if implemented or outside the power of the Council and not capable of being considered by the Council as a result, the General Manager is to advise the Councillor submitting it accordingly. If the notice of motion is not altered or withdrawn by the Councillor submitting it, sub-clause 11.3 is to have affect and the notice of motion is to be excluded from the Agenda for the meeting.

A notice of motion included in the Agenda for an Ordinary meeting of the Council may, by amendment, be referred to a nominated Standing Committee for report.

If the General Manager considers that a notice of motion submitted by a Councillor for consideration at an Ordinary meeting of the Council has legal, strategic, financial or policy implications and/or ramifications which should be taken to account by the meeting, the General Manager may, by a memorandum sent to all Councillors with the Agenda put forward a recommendation for consideration by the meeting, including a recommendation to defer the matter for further report.

Notices of motion to Ordinary meetings of the Council should only be used when urgency has prevented a Councillor from first raising the matter at a meeting of the appropriate Standing Committee.

## 23. Rescinding or Altering Resolutions

23.1 A resolution may not be altered or rescinded except by a motion to that effect of which notice has been given. The required period of notice is three days before the meeting at which the motion is to be considered.

### **LGA S372**

If it is proposed to move a further motion on the same matter in the event that a rescission motion is carried notice must also be given of the proposed further motion at the time that notice is given of the alteration or rescission motion.

23.2 If a notice of motion to rescind or alter a resolution is given:-

- at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with; or
- at any time after the meeting at which the resolution is carried, no further action to carry the resolution into effect may be taken after receipt of the notice of rescission until it has been dealt with.

In the case of a motion of alteration the requirement for no action or no further action to carry the resolution into effect only applies to that part of the motion affected by the motion of alteration, if it were to be carried.

### **LGA S372**

23.3 A notice of motion to alter or rescind a resolution must be signed by at least three Councillors if less than three months has elapsed since the resolution was passed.

### **LGA S372**

23.4 A notice of motion which has the same effect as a motion which has been negated by the Council must be signed by at least three Councillors if less than three months has elapsed since the motion was negated.

### **LGA S372**

23.5 If a motion which proposed:-

- the alteration or rescission of a resolution; or
- having the same effect as a motion which has previously been negated
- is negated no similar motion may be brought forward within three months.

This sub-clause cannot be evaded by substituting a motion worded differently but being the same in principle.

### **LGA S372**

23.6 A motion to which this clause of the Code applies may be moved on the report of a Council committee and any such report must be recorded in the minutes.

**LGA S372**

23.7 The provisions of this clause of the Code relating to negatived motions do not apply to motions of adjournment.

**LGA S372**

23.8 Notices of rescission should be foreshadowed at the meeting at which the original resolution was determined. This is to prevent the resolution being enacted prior to consideration of the rescission motion.

## 24. Duty with Respect to Motions/Amendments

24.1 It is the duty of the Chairperson to receive and put any lawful motion that is brought before the meeting.

**R CI 238**

24.2 The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.

**R CI 238**

24.3 Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.

**R CI 238**

## 25. Conduct of Debate

25.1 Councillors, during Ordinary or Extraordinary Meetings, will designate each other by their official designation as Mayor, Chairperson or Councillor, and with the exception of the Chairperson or any Councillor prevented by physical infirmity, will stand when speaking except when seconding a motion or amendment.

The Chairperson will not establish or keep a listing of the order in which Councillors have indicated a desire to speak to a motion or amendment. The order of speakers is to be determined under this clause of the Code and the Meetings Regulation.

25.2 The Chairperson will rise when addressing the Council to discuss any motion and will not leave the Chair on those occasions.

25.3 If two or more Councillors rise to speak at the same time, the Chairperson will decide who is entitled to priority.

25.4 A Councillor will not be interrupted while speaking unless called to order when he or she will sit down until the Councillor calling to order has been heard and the question of order disposed of when the Councillor may proceed.

## 25.5 Number of Speeches

- 25.5.1 A Councillor who, during a 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.

### R CI 250

- 25.5.2 Each other Councillor has the right to speak once on the motion and once on each amendment to it.

### R CI 250

- 25.5.3 Except as provided by sub-clause 25.5.1, a Councillor must not, without leave of the meeting, speak more than once on a motion or an amendment or for longer than five minutes at any one time unless in personal explanation when he or she has been misrepresented or misunderstood. Leave for extra time may only be granted on one occasion for a maximum of two minutes.

## 25.6 Questions of Councillors and Officers

During debate a Councillor may ask a relevant question or questions of another Councillor or a Council officer. Clause 29 of this Code applies to questions asked under this sub-clause.

### R CI 249

## 25.7 Personal Explanations

- 25.7.1 A Councillor may make a brief personal explanation at any Council meeting when he or she believes that he or she has been misrepresented or misunderstood.

- 25.7.2 A personal explanation under this clause will be made immediately after the speaker making the statement concludes.

A personal explanation under this clause cannot be raised as a point of order.

A Councillor must not, without leave of the meeting, speak for longer than two minutes in making a personal explanation under this sub-clause.

- 25.8 Any Councillor referring to or quoting from a document during debate or at any other time during a meeting of the Council will, at the request of any other Councillor, table the document when requested to do so.

## 26. Points of Order

- 26.1 Any Councillor may rise to a point of order when:-

- the procedures of the meeting have been infringed;

- the subject matter of the motion is beyond power;
- the speaker has digressed to irrelevant matter;

26.2 The point of order must be taken at the time the breach occurs or the matter complained of is presented.

26.3 A point of order will be taken by stating:-

- the matter complained of; and
- the basis of the point of order.

26.4 The Chairperson may take a point of order although it has not been taken by any Councillor.

Rising to express a difference of opinion, to contradict a speaker or to make a personal explanation will not be treated as taking a point of order.

A Councillor must not, without leave of the meeting, speak for longer than two minutes in making a point of order under this sub-clause.

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.

26.5 Point of order raised and ruled upon in accord with this section are to be recorded in the minutes of the meeting.

#### **R CL 255**

## 27. Voting

27.1 Each Councillor is entitled to one vote, however the Chairperson has, in the event of an equality of votes, a second or casting vote.

#### **LGA S 370**

27.2 A Councillor present at a meeting who fails to vote on a motion will be taken to have voted against the motion.

#### **R CI 251**

27.3 A councillor or a member of a council committee who has a pecuniary interest in any matter and who is present at a meeting of the council or committee at which the matter is being considered must:-

- disclose the nature of the interest as soon as practicable,
- not be present at, or in sight of, the meeting at any time during which the matter is being considered, discussed or voted on.

#### **LGA S451**

27.4 A councillor or a member of a council committee who has a non-pecuniary interest in any matter and who is present at a meeting of the council or committee at which the matter is being considered must:-

- disclose the nature of the interest as soon as practicable,
- Comply with the provision of section 41 of this code.

27.5 The decision of the Chairperson as to the result of the vote is final unless the decision is immediately challenged and not fewer than two Councillors rise and demand a division.

#### **R CI 251**

If a division is called for, the vote already taken must be treated as a nullity and the division shall decide the question, motion or amendment.

The Chairperson will take a decision when a division has been called by firstly asking those Councillors voting in favour of the question, motion or amendment for which the division has been demanded to stand and will then repeat that process for those Councillors voting against the question, motion or amendment.

A Councillor failing to stand as being for or against a motion or amendment as a result of a division being demanded unless prevented by physical infirmity is taken to have voted in the negative.

## 28. Questions of Order, Acts of and Dealing with Disorder

28.1 The Chairperson without the intervention of any other Councillor may call any Councillor to order when, in his or her opinion, it is necessary to do so.

#### **R CI 255**

28.2 A Councillor who claims that any Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson to the matter.

#### **R CI 255**

28.3 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.

#### **R CI 255**

28.4 The Chairperson's ruling must be obeyed unless a motion dissenting from the Chairperson's ruling is passed.

#### **R CI 255**

28.5 A Councillor commits an act of disorder at a meeting if he or she does any of the things set out in the following sub-paragraphs. The Chairperson may request the Councillor to do any of the things set out in the second part of each following sub-paragraph if the Chairperson finds the Councillor has committed an act of disorder: -

- Contravenes the Act, any regulation in force under the Act, in which case the Chairperson may require the Councillor to apologise without reservation.

**R CI 256**

- Assaults or threatens to assault another Councillor or person present at the meeting in which case the Chairperson may require the Councillor to apologise without reservation.

**R CI 256**

- 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 in which case the Chairperson may require the Councillor to withdraw the motion or amendment and where appropriate to apologise without reservation.

**R CI 256**

- Insults or makes personal reflections on or imputes improper motives to any other Councillor in which case the Chairperson may require the Councillor to retract and apologise without reservation.

**R CI 256**

- Says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt in which case the Chairperson may require the Councillor to retract and apologise without reservation.

**R CI 256**

28.6 A Councillor may be expelled from a meeting for having failed to comply with a requirement under sub-paragraph 28.5 of this Code. The expulsion of a Councillor from the meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder.

**R CI 256**

28.7 A member of the public may be expelled from a meeting by the Chairperson for engaging in or having engaged in disorderly conduct and failing to comply with a requirement under sub-paragraph 28.5 of this Code.

**LGA S 10(2)**

**R CL 257**

28.8 By virtue of the operation of this sub-clause of this Code, the Council is taken to have resolved to authorise any Councillor presiding at a meeting to exercise the power of expulsion to be applied to any person other than a Councillor as provided by Section 10(2) of the Act.

**LGA S 10(2)**

28.9 The power of expulsion in relation to a Councillor can only be applied as a result of a resolution of the meeting.

**LGA S 10(2)**

28.10 If at a meeting a Councillor or member of the public is expelled and the Councillor or member of the public fails to leave the meeting immediately, a police officer or any person authorised by the meeting for the purpose may, using only such force as is necessary, remove the person and if necessary restrain him or her from re-entering.

**R CI 258**

**R CL 271**

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

**R CI 257**

## 29. Questions of Councillors and Employees

29.1 A Councillor may through the Chairperson put a question to another Councillor and may through the General Manager put a question to an employee.

**R CI 249**

29.2 The Councillor or employee is entitled to be given reasonable notice of a question and in particular sufficient notice to enable reference to be made to other people or to documents.

**R CI 249**

29.3 Every question is to be put directly, succinctly and without argument.

**R CI 249**

29.4 The Chairperson must not permit discussion on any reply or refusal to reply.

**R CI 249**

## 30. Questions on Notice

A Councillor may submit a question in writing in relation to any bona-fide business of the Council. Questions are to be directed to another Councillor or member of staff by name at Ordinary meetings of the Council.

All questions are to be delivered to the General Manager and are to form part of the Agenda for the next scheduled Ordinary meeting of the Council for which an Agenda has not been completed.

Every question on notice is to be signed by the Councillor putting it and is to be direct and succinct in its terms. Questions are not to include argument or statements of opinion and to the extent that they do they will be modified by the Mayor or General Manager as appropriate.

At the meeting at which the question forms part of the Agenda the Mayor or General Manager (as appropriate) is to determine whether the question relates to bona-fide business of the Council.

Questions designed only to criticise or embarrass another Councillor or member of staff are to be rejected by either the Mayor or General Manager (as appropriate).

Approved questions are to be answered by the Councillor or member of staff to whom they are asked. Answers may be given verbally or in writing. Written answers are to be included in the business paper. Verbal answers may be summarised for inclusion in the minutes.

## 31 Public Address Forum

31.1 That for a period not exceeding 30 minutes commencing one hour before the scheduled beginning of each Ordinary Meeting of the Council a forum (to be known as the Public Address Forum) be held for the purposes of enabling members of the public to address Councillors present on issues and/or matters of relevance

### Public Addresses

31.2 The Mayor is to Chair the forum and the forum can only proceed if at least two Councillors are present. Clause 14 of the Code is to apply if the Mayor is not in attendance.

31.3 Proceedings for addresses to the forum are to be governed by Clause 32 of the Code with such modifications and adoptions as are necessary. In particular however the provisions regarding notice to address the forum and time limits are to apply.

31.4 An address to the forum cannot however be made on a matter or issue which is scheduled to be considered and/or determined at the meeting/s following the forum.

### Councillors Questions without Notice

31.5 Immediately before the close of each Ordinary meeting of the Council, Councillors may ask questions without prior notice of other Councillors, the General Manager or a Group Manager.

31.6 Questions are to relate to the bona-fide business of the Council and are to be direct and succinct. Questions are not to include argument or statements of opinion and to the extent that they do will be modified by the Chairperson or General Manager (as applicable).

31.7 The provisions of Clauses 29 and 30 of the Code are to apply to Questions without Notice from Councillors with such modifications and adaptations as are necessary.

31.8 Questions falling into the following categories are to be rejected by the Chairperson or General Manager (as appropriate):-

- Questions designed only to criticise or embarrass a Councillor or member of staff
- Questions which relate to matters of routine maintenance, operations or processes which can more effectively be put and dealt with at times other than at a meeting of the forum.

31.9 No discussion or debate arising from an answer to a question or a refusal to answer a question is to be permitted.

31.10 The Chairperson or General Manager (as appropriate) may require that a Question Without Notice from a Councillor be provided in writing.

## 32. Deputations to Meetings

32.1 The Council will set time aside at each of its Ordinary Council meetings and/or Standing Committee meetings to receive deputations on matters scheduled for consideration.

32.2 People wishing to be heard by a meeting under this clause are to advise the General Manager in writing five clear days at least before the scheduled meeting so that the deputation can be listed on the Agenda.

32.3 Late applications to address Council must be lodged with the General Manager no later than 4.00pm on the day prior to the meeting. If the late application is refused by the General Manager, the meeting is to be advised by the General Manager and the deputation may be heard if leave of the meeting is granted.

32.4 Applications to be heard at a meeting under this clause on matters not scheduled for consideration will be approved only if the Mayor and General Manager consider that the matter is of significance to the legitimate business of the Council.

If the Mayor and General Manager fail to agree, that failure, together with the request for the deputation is to be listed in the Agenda for the meeting and the meeting may, by granting leave, receive and hear the deputation.

32.5 Those people who have been granted approval to be heard by a meeting shall provide supporting documentation, at their cost prior to the meeting and the General Manager is to arrange for it to be circulated to Councillors at the earliest convenient opportunity. People wishing to use Powerpoint presentations, or require maps or photos to be displayed on screen must provide their electronic files to the executive assistant by 4.00pm on the day prior to the meeting.

32.6 People addressing a meeting are to be limited to five minutes, but may be permitted to exceed that limit for a nominated time by leave of the meeting.

32.7 Councillors and officers are to be given the opportunity to ask questions of people addressing the Council. The time permitted for questions and responses is to be limited to five minutes and this limit can only be exceeded by up to two minutes with the leave of the meeting.

The General Manager or his nominee may, with the concurrence of the Chairperson, address the meeting for up to five minutes after an address to the Council has been made and any subsequent questions and answers have been finalised.

32.8 If a speaker addressing a meeting digresses to irrelevant matters the Chairperson is to direct the speaker not to digress. If a speaker fails to observe a direction from the Chairperson the speaker will not be further heard.

For the purposes of this clause, a speaker is deemed to have digressed to irrelevant matters if he or she is principally complaining about Councillors or members of staff. In these circumstances, the speaker is to be advised by the Chairperson that complaints against Councillors or members of staff must be submitted in writing in keeping with Council's complaints policy. If the person persists with complaints he or she is not to be further heard.

The Chairperson is to be the sole arbiter of whether or not a person may continue to address a meeting.

32.9 If a deputation is heard in relation to a matter scheduled to be determined at the meeting, the matter is not to be determined at that meeting, but is to be deferred for further report taking into account the matters raised during the address/deputation.

However, the meeting may proceed to determine a matter before it even though a deputation has been received, if it is in the public interest for a decision to be made by the Council. This provision cannot be applied when two Councillors and an officer of the Council requests that the item be deferred for the purpose of providing additional information which in the opinion of the two Councillors and the officer is necessary as a result of the deputation being heard.

The deferral of a matter under this sub-clause is to be to the next practicable meeting which will preferably be the next scheduled meeting with authority to determine the application. If, at the subsequent meeting, a further address is made or a deputation is received, the Council may, notwithstanding the provisions of this Clause of the Code, proceed to determine the matter before it without further adjournment.

32.10 Deputations on each particular agenda item shall be heard in the order they are lodged and approved.

32.11 The applicant shall be granted a right of reply, if requested following the presentation of objections on the specific agenda item.

32.12 Staff assessment of matters raised in a deputation will be based solely on written documentation provided by the presenter.

### 33. Minutes

33.1 The Council must ensure that full and accurate minutes are kept of proceedings of meetings of the Council or a Committee of the Council.

**LGA S375 (1)**

**R CI 254**

33.2 When the minutes have been confirmed at a subsequent meeting of the Council they will be signed by the Chairperson of that subsequent meeting.

**LGA S375 (2)**

33.3 Without limiting clause 33. 1, the minutes will record: -

- the date, place, time and nature of the meeting;
- the names of Councillors present;
- the grounds on which part of a meeting is closed to the public;
- arrivals and departures of Councillors (including temporary departures) during the course of the meeting;
- details of all motions and amendments moved and seconded (including motions and amendments which lapse for want of a seconder) together with the names of the mover and seconder and whether they were carried or lost;
- at the request of any Councillor whether the Councillor voted for or against any motion or amendment;
- where a division is called, the names of the Councillors voting for and against the motion or amendment;
- disclosures of pecuniary and non-pecuniary interests by Councillors or members of Council Committees. Tabled written disclosures will be appended to the minutes.
- circumstances relating to the absence of a quorum.
- questions on notice and their answers or whether the question has been rejected by the Mayor or General Manager.
- The names of councillors voting for and against all motions or amendments be noted for each item.

**LGA S453**

**R CI 233**

33.4 The General Manager will arrange for a copy of the minutes of a meeting to be given to each Councillor in advance of the meeting at which they are to be considered for confirmation.

33.5 At the meeting at which minutes of a previous meeting are to be confirmed they will be taken as read and no discussion will be permitted except as to their accuracy as a record of the proceedings of the meeting to which they relate.

33.6 The minute books, except the minute books of closed parts of meetings, will be open to inspection by any person free of charge during normal office hours.

**LGA S 12**

33.7 An inspection of the minutes will be carried out under the supervision of the General Manager or his or her nominee.

33.8 The General Manager will ensure that the minutes of the Council or a Council Committee are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

**R CI 272**

## 34. Applications to Committees

34.1 Each Committee of the Council and Advisory Committees may regulate its own procedures.

**R CI 265**

34.2 A Committee may decide that when voting on a motion is equal the Chairperson of the Committee is to have a casting vote as well as a deliberative vote.

**R CI 265**

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

34.4 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.

However, the Councillor is not entitled:-

- to give notice of business for inclusion in the Agenda for the meeting, or
- to move or second a motion at the meeting, or
- to vote at the meeting.

**R CI 263**

34.5 In other respects the provisions of the Act and the Meetings Regulation apply to Committee meetings. In addition to which the provisions of this Code with such adaptations and modifications as may be necessary apply to the conduct of Committee meetings including the meetings of Committees of the Council appointed under Section 355 of the Act.

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

- has been absent from three consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or

- 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.

This sub-clause does not apply if all of the members of the Council are members of the committee.

## **R CI 268**

## 35. Standing Committees

### 35.1 Appointment/Abandonment

The Council may by resolution appoint or abandon Standing Committees.

### 35.2 Membership

All Standing Committees are to be comprised of all members of the Council.

### 35.3 Currency of Standing Committees

At the time of adopting this Code the Standing Committees of the Council are to be:-

- Corporate management Committee
- Finance and Infrastructure Committee
- Planning and Environment Committee
- Community Services Committee

### 35.4 Quorum

The quorum for meetings of Standing Committees is to be five Councillors.

### 35.5 Chairperson

Notwithstanding clause 14.3 of this Code the Council by virtue of this sub-clause indicates its preference for Standing Committees to elect their Chairperson from their membership being a Councillor other than the Mayor or Deputy Mayor.

A Councillor elected as the Chairperson of a particular Standing Committee is to serve in that capacity for no more than two consecutive annual terms.

## 36. Photographing/Recording Meetings

36.1 A Councillor or any other person may use a camera, tape-recorder, video camera or any electronic device capable of recording speech to record the proceedings of a meeting, with the permission of the Chair, except where:-

- part of the meeting has been closed to the public; or

- the Council or Committee has passed a resolution prohibiting a particular meeting or part of a meeting from being photographed, filmed or tape-recorded.

36.2 If a person, other than a Councillor, uses a camera, tape recorder or video camera in contravention of this clause the Chairperson of the meeting may expel that person.

**R CI 273**

36.3 If a Councillor uses a camera, tape recorder or video camera in contravention of this clause the meeting may by resolution expel that Councillor from the meeting.

**LGA S10(2)**

36.4 Council provided recording equipment will be used to audio-record all Ordinary, Extraordinary and Committee of the Whole meetings held in the Council Chamber including those parts of meetings closed to the public.

36.5 Council produced recordings of meetings under this clause are to be kept for a minimum period of three months after the date of the last action arising from the recording (General Records Disposal Schedule).

## 37. Departmental Reports

When a report of a Department of Local Government representative has been presented to a meeting of the Council in accordance with Section 433 of the Act, the Council must ensure that it is laid on the table at that meeting and is subsequently available for the information of Councillors and members of the public at all reasonable times.

**R CI 244**

## 38. Numbers Attending Meetings

38.1 Numbers of people attending meetings held in the Council Chambers Bega is limited by this clause for reasons of public safety.

The maximum number of people permitted to remain in the Council chamber at any one time shall not exceed 150.

Where the number of people in the Chamber exceeds the fixed seating capacity:

- doors to the Chamber are to be secured in an unlocked and open position and remain in that position while the numbers are present.
- any additional seating brought into the Chamber shall not be located within aisles designed for access or ingress.
- that arrangements be made to ensure that people cannot access temporary seating or otherwise bring temporary seating into the Chamber without approval.

When it is expected that a particular issue or issues will attract a larger than usual number of people to the Gallery arrangements are to be made for a staff member to be positioned at the entrance doors to the Chamber to assist and regulate public entry.

38.2 With such adaptations, modifications or amendments as may reasonably be necessary this clause applies to meetings conducted by the Council in rooms or buildings other than the Council Chambers.

### 39. Suspension of Code

39.1 Subject to the provisions of the Act and the Meetings Regulation the Council may resolve to suspend any one or more of the provisions of this Code for a special purpose.

39.2 Where a Code provision is suspended by the Council for a special purpose and that special purpose subsequently occurs, the provisions of the Code will be deemed to have been resumed.

### 40. Local Government and Planning Legislation Amendment (Political Donations) Act 2008

40.1 Subject to the provision of this amendment, the General Manager shall maintain a public register of all current donations and expenditure declarations lodged by Councillors with the Election Funding Authority of NSW (section 328A).

40.2 If the General Manager reasonably suspects that a councillor has failed to comply with his or her obligation to disclose and manage a conflict of interests arising from a political donation, the General Manager will refer the matter to the Director General (section 328B).

40.3 The General Manager shall maintain a record of which Councillors vote for and against each planning decision of the council, and to make this information publicly available. This section will also apply to those county councils delegated the exercise of planning functions under the *Environmental Planning and Assessment Act 1979*.

To maintain the register, the Act requires that a division be called (in accordance with this Code) whenever a planning decision is put at a Council or committee meeting, including meetings closed to the public. Each decision recorded in the register is to clearly describe or identify the matter being determined and how councillors voted. (section 375A)

### 41 Declaration of Interest

Councillors and officers will submit a written statement in the attached format, detailing the agenda item and basis of the declaration of interest. Such declaration as determined by the individual shall identify whether the interest is pecuniary or non-pecuniary. If pecuniary, the Councillor or officer will leave the meeting and not participate in discussion or voting. If the interest is non pecuniary, the councillor will declare his/her intention in regard to participating and voting on the matter. Such declarations will be tabled and appended to the minutes.

**(Amended by Council September 2008)**