



Hawkesbury City Council

attachment 1  
to  
item 194

Council's Amended

Code of Meeting Practice

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location: council chambers  
time: 6:30 p.m.





Hawkesbury City Council

Code of Meeting  
Practice





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## 1. Introduction

The *Local Government Act 1993* (the Act) provides that a council may adopt a code of meeting practice incorporating requirements of the Act and the *Local Government (General) Regulation 2005* (the Regulation) concerning the conduct of meetings. The Council and all Committees of the Council, of which all members are Councillors, must conduct their meetings including extraordinary council meetings in accordance with this Code (Section 360).

In adopting a Code of Meeting Practice, Hawkesbury City Council commits itself to the following principles:

1. meetings should be orderly, efficient and earn the respect of the City's ratepayers, residents and visitors;
2. meetings shall be conducted consistent with the Council's commitment to supporting the involvement and participation of local residents in issues which affect the City;
3. Councillors and staff have an obligation to conduct themselves at meetings to accepted standards of behaviour and make positive contributions to the issues being considered. Importantly, Councillors and staff should not reflect adversely on their peers or each other publicly;
4. meetings should be held in an environment which facilitates respect shown for the views of others and regard for due process of law, reasonableness and fairness;
5. Council meetings should comply with the basic organisational principle of Councillors not involving themselves in the day-to-day administration of Council matters. Meetings should address matters of policy, direction, resource allocation, statutory decisions and other appropriate Council issues;
6. meetings of Council and its Committees shall be open to the public in all circumstances except by resolution of Council or its Committee in extraordinary circumstances as provided for in Section 10 of the Act (see 2.1.2).

The Code has been prepared in a format reflecting statutory provisions i.e. Act and Regulations and the Council's policies relating to the conduct of meetings.

The Code shall be interpreted in a manner which is consistent with the Act and Regulation.

The date of adoption of the Code by the Council will be the date on which the Code will come into effect.

The Code will be reviewed within 12 months of a newly elected Council, however the Council may decide to review and adopt an amended Code at any time. Relevant changes which are made to the Act and Regulation will be incorporated into the Code without the need for public exhibition.





## 2. Notice of Meetings and Agendas

### 2.1 Local Government Act 1993 and subsequent amendments - Provisions

#### 2.1.1 Public notice of meetings (Section 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. A council and each such committee must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting.
3. In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the General Manager, is likely to take place when the meeting is closed to the public:
  - a) the agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item), and
  - b) the requirements of subsection (2) above with respect to the availability of business papers do not apply to the business papers for that item of business.
4. The copies are to be available to the public as nearly as possible to the time they are available to Councillors.
5. The copies are to be available free of charge in accordance with Section 9 of the *Local Government Act*.
6. A notice given under this section or a copy of an agenda or business paper made available under this section may be given or made available in electronic form.

#### 2.1.2 Who is entitled to attend meetings? (Section 10)

1. Except as provided by this Part:
  - a) everyone is entitled to attend a meeting of the Council and those of its committees of which all the members are Councillors, and
  - b) a council must ensure that all meetings of the Council and of such committees are open to the public.
2. However, a person (whether a Councillor or another person) is not entitled to be present at a meeting of the Council or of such a committee if expelled from the meeting:
  - a) by a resolution of the meeting, or
  - b) by the person presiding at the meeting if the Council has, by resolution, authorised the person presiding to exercise the power of expulsion.
3. A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.

#### 2.1.3 How often does the Council meet? (Section 365)

The Council is required to meet at least ten times each year, each time in a different month.

#### 2.1.4 Calling of extraordinary meeting on request by Councillors (Section 366)

If the Mayor receives a request in writing signed by at least two Councillors, the Mayor must call an extraordinary meeting of the Council to be held as soon as practicable but in any event within 14 days after receipt of the request.



**2.1.5 Notice of meetings (Section 367)**

1. The General Manager of Council must send to each Councillor, at least three days before each meeting of the Council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.
2. Notice of less than three days may be given of an extraordinary meeting called in an emergency.
3. A notice under this section and the agenda for, and the business paper relating to, the meeting may be given to a Councillor in electronic form but only if all Councillors have facilities to access the notice, agendas and business papers in that form.

**2.2 Local Government (General) Regulation 2005 - Provisions**

**2.2.1 Order of business (Clause 239)**

1. At a meeting of Council (other than an extraordinary meeting), the general order of business is (except as provided by this Regulation) as fixed by the Council's code of meeting practice or (if the Council does not have a code of meeting practice or its code of meeting practice does not fix the general order of business) as fixed by resolution of the Council.
2. The order of business fixed under subclause (1) may be altered if a motion to that effect is carried. Such a motion can be moved without notice.
3. Despite clause 250 (see 3.2.8), only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.

**2.2.2 Agenda and business papers for Council meetings (Clause 240)**

1. The General Manager must ensure that the agenda for a meeting of the Council states:
  - a) all matters to be dealt with arising out of the proceedings of former meetings of the Council, and
  - b) if the mayor is the chairperson - any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - c) subject to subclause (2), any business of which due notice has been given.
2. The General Manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report (without giving details of the item of business) any such exclusion to the next meeting of the Council.
3. The General Manager must cause the agenda for a meeting of the Council or a committee of the Council to be prepared as soon as practicable before the meeting.
4. The General Manager must ensure that the details of any item of business to which section 9(2A) (see 2.1.1) of the Act applies are included in a business paper for the meeting concerned.
5. Nothing in this clause limits the power of the chairperson under clause 243 (see 3.2.1).



**2.2.3 Giving notice of business (Clause 241)**

1. A council must not transact business at a meeting of the Council:
  - a) unless a Councillor has given notice of the business in writing within such time before the meeting as is fixed by the Council's code of meeting practice or (if the Council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by resolution of the Council, and
  - b) unless notice of the business has been sent to the Councillors in accordance with Section 367 (see 2.1.5) of the Act.
2. Subclause (1) does not apply to the consideration of business at a meeting if the business:
  - a) is already before, or directly relates to a matter that is already before, the Council, or
  - b) is the election of a chairperson to preside at the meeting as provided by clause 236 (see 3.1.2 (2), or
  - c) is a matter or topic put to the meeting by the chairperson in accordance with clause 243 (see 3.2.1), or
  - d) is a motion for the adoption of recommendations of a committee of the Council.
3. Despite subclause (1), business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
  - a) a motion is passed to have the business transacted at the meeting. and
  - b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency. Such a motion can be moved without notice.
4. Despite clause 250 (see 3.2.8), only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.
5. Councillors may put forward Notices of Motion for discussion in the Council on issues. However in respect of the matters listed below it is preferable for Councillors to put the Notice of Motion in a form which calls for a report to the Council having regard to impact, materiality and urgency of each particular case:
  - commit the Council to expenditure
  - change an existing policy
  - create new policy
  - create a precedent.

**2.2.4 Agenda for extraordinary meeting (Clause 242)**

1. The General Manager must ensure that the agenda for an extraordinary meeting of Council deals only with the matters stated in the notice of the meeting.
2. Despite subclause (1), business may be transacted at an extraordinary meeting of Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
  - a) a motion is passed to have the business transacted at the meeting, and
  - b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency. Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.
3. Despite clause 250 (see 3.2.8), only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.



## **2.3 Policy - Provisions**

### **2.3.1 When are meetings held?**

Hawkesbury City Council shall hold Ordinary Meetings on the second Tuesday of every month (except January), and on the last Tuesday of every month (except December), at the Council Chambers, George Street, Windsor. Meetings shall not be held on a Tuesday directly following a public holiday, based on this scheduling. Ordinary Meetings shall commence at 6:30pm and finishing at 11pm, unless otherwise resolved by Council. The Chairperson may adjourn the meeting for a short break where a meeting has been in session for some time.

Public notice will be given as to the time of the meeting. However, the meeting schedule may be amended by the Mayor, General Manager or resolution of Council if circumstances necessitate.

Such circumstances would include Public Holidays, the Local Government Conference, or decisions to revise meeting times, etc. Prior public notification must be given prior to altering the meeting schedule, time or venue.

The Mayor may call an Extraordinary Meeting within the provisions of Section 366 of the Act, and such meetings where possible are to be held at 6:30pm at the Council Chambers.

### **2.3.2 Notices of Motion**

Notices of Motion from Councillors must be lodged with the General Manager seven days prior to the meeting at which they are to be discussed.

### **2.3.3 Notices of Rescission**

A notice of motion to rescind a resolution of Council must be signed by three Councillors if less than three months has elapsed since the resolution was passed. If the notice of motion to rescind a resolution is received by the General Manager by 5pm on the day following the day the meeting of Council started, the resolution will not be carried into effect until the motion of rescission has been dealt with. No consents relating to applications determined at a meeting of Council will be issued before 5pm on the day following the day the meeting of Council started.

### **2.3.4 Tabled documents**

1. Documents 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.
2. In the event that a Councillor wishes to table a document not covered by 1. above, that document must be given to the General Manager by 3pm of the day of the meeting.
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.



### **2.3.5 Agendas**

Business is dealt with in five general sections being:

- Planning Decisions
- General Manager
- City Planning
- Infrastructure Services
- Support Services.

Business papers for each meeting shall be conveyed to Councillors at least three working days prior to the Meeting. Business papers will also be available for the public in the reception of the Council offices from the Monday or as soon as practical prior to the meeting and in the Gallery of the Council Chambers just prior to the meeting commencing.

### **2.3.6 Order of business**

The order of business for Ordinary Meetings shall be as follows:

- 1) Welcome
  - a) Acknowledgement of Indigenous Heritage
- 2) Apologies and Leave of Absence
- 3) Declaration of Interests
- 4) Confirmation of Minutes
- 5) Acknowledgement of Official Visitors to the Council
- 6) Agenda Items Subject to Public Address
- 7) Mayoral Minutes
- 8) Exception Reports – Adoption of Items Not Identified for Discussion and Decision
- 9) Reports for Determination
  - Planning Decisions
  - General Manager
  - City Planning
  - Infrastructure Services
  - Support Services
- 10) Receipt of Minutes of Other Committees
- 11) Notices of Motion
- 12) Responses to Questions from Previous Meeting
- 13) Questions for Next Meeting
- 14) Reports Proposed to be discussed in Confidential Session

### **2.3.7 Late reports**

As circumstances necessitate, reports not listed for consideration on a business paper may be tabled at an Ordinary Meeting. In such circumstances, a period of time (to be determined by the chairperson) shall be allowed for Councillors to read the report prior to discussion or determination of the matter. The aforementioned late reports are to be forwarded to Councillors via email.

If due notice of the late report has not been given in accordance with Section 367 of the Act, Council must:

- a) pass a motion to have the business transacted at the meeting, and
- b) have the business proposed to be brought forward ruled by the chairperson to be of great urgency.



### **3. Conduct of Meetings**

#### **3.1 Local Government Act 1993 and subsequent amendments - Provisions**

##### **3.1.1 What is the quorum for a meeting? (Section 368)**

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.

##### **3.1.2 Who presides at meetings of the Council? (Section 369)**

1. The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor (if any) presides at meetings of the Council.
2. If the Mayor and the Deputy Mayor (if any) are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council.

##### **3.1.3 What are the voting entitlements of Councillors? (Section 370)**

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

##### **3.1.4 What constitutes a decision of the Council? (Section 371)**

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.

##### **3.1.5 Rescinding or altering resolutions (Section 372)**

1. A resolution passed by 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 Council's Code of Meeting Practice.
2. If notice of a motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.
3. If a motion is not carried, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with the Council's Code of Meeting Practice.
4. A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council, must be signed by three Councillors if less than three months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
5. 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 months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.
6. A motion to which this section applies may be moved on the report of a committee of the Council and any such report must be recorded in the minutes.
7. The provisions of this section concerning negated motions do not apply to motions of adjournment.



**3.1.6 Certain circumstances do not invalidate Council decisions (Section 374)**

Proceedings at a meeting of Council or Council committee are not invalidated because of:

- a) a vacancy in a civic office, or
- b) a failure to give notice of the meeting to any Councillor or committee member, or
- c) any defect in the election or appointment of a Councillor or committee member, or
- d) a failure of a Councillor or a committee member to disclose a pecuniary interest at a Council or committee meeting in accordance with Section 451 (see 3.1.8), or
- e) a failure to comply with the Code of Meeting Practice.

**3.1.7 Attendance of the General Manager at meetings (Section 376)**

1. The General Manager is entitled to attend, but not to vote at, a meeting of the Council or a meeting of a committee of the Council of which all the members are Councillors.
2. The General Manager is entitled to attend a meeting of any other committee of the Council and may, if a member of the committee, exercise a vote.
3. However, the General Manager may be excluded from a meeting of the Council or a committee while the Council or committee deals with a matter relating to the standard of performance of the General Manager or the terms of the employment of the General Manager.

**3.1.8 Disclosure and participation in meetings (Section 451)**

**Pecuniary Interests**

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 who is present at a meeting of the Council or committee at which the matter is being considered must disclose the interest to the meeting as soon as practicable. The disclosure must be in writing and describe the nature and extent of the pecuniary interest.  
*Note: The definition of what a pecuniary interest is, who has a pecuniary interest and what interests do not have to be disclosed are outlined in Sections 442, 443 and 448 respectively of the Act. These sections of the Act are reproduced in full in Annexure B to this document - (See Annexure B - Pecuniary Interests).*
2. The Councillor or member must not be present at, or in sight 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.
3. The Councillor or member must not take part in the consideration or discussion of the matter.
4. The Councillor or member must not vote on any question relating to the matter.
5. A Councillor who has a non-pecuniary conflict of interest (as defined by Council's Code of Conduct) in any matter in which the Council is concerned is required to disclose the nature of the interest to the meeting of the Council or committee of the Council as soon as practicable. The disclosure must be in writing and describe the nature and extent of the pecuniary interest.
6. Non-pecuniary conflicts of interest must be managed in accordance with Council's Code of Conduct.
7. 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 Councillor to be significant, the Councillor must leave the meeting, be out of sight of the meeting and not participate in discussions or voting on the matter.





8. 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.

**3.1.9 Non-attendance at Council meetings (Section 234(d))**

A civic office becomes vacant if the holder is absent without prior leave of the Council from three consecutive ordinary meetings of the Council.

**3.1.10 Which parts of a meeting can be closed to the public (Section 10A)**

1. 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 subclause (2), or
  - b) the receipt or discussion of any of the information so listed.
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,
  - h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
  - i) alleged contraventions of any code of conduct requirements applicable under section 440.
3. 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.
4. 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.

**3.1.11 Further limitations relating to closure of parts of meetings to public (Section 10B)**

1. A meeting is not to remain closed during the discussion of anything referred to in Section 10A (2) (see 3.1.10):
  - a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
  - b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or 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.





2. A meeting is not to be closed during the receipt and consideration of information or advice referred to in Section 10A(2)(g) (see 3.1.10) 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. 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)) (see 3.1.10), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in Section 10A(2)) (see 3.1.10).
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.
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 Departmental Chief Executive.

**3.1.12 Notice of likelihood of closure not required in urgent cases (Section 10C)**

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) (see 3.1.10), and
- b) the Council or committee, after considering any representations made under Section 10A(4) (see 3.1.10), 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.

**3.1.13 Grounds for closing part of meeting to be specified (Section 10D)**

1. The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting must be recorded in the minutes of the meeting.
2. The grounds must specify the following:
  - a) the relevant provision of Section 10A(2) (see 3.1.10),
  - b) the matter that is to be discussed during the closed part of the meeting,
  - c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.



## **3.2 Local Government (General) Regulation 2005 - Provisions**

### **3.2.1 Official minutes (Clause 243)**

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

### **3.2.2 Report of Director –General to be tabled at Council Meeting (Clause 244)**

When a report of the Director-General or a person to whom the Director-General's functions under section 430 of the Act have been delegated or sub-delegated under section 745 of the Act has been presented to a meeting of a council in accordance with section 433 of the Act, the council must ensure that the report:

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

### **3.2.3 Notice of Motion - Absence of mover (Clause 245)**

In the absence of a Councillor who has placed a notice of motion on the agenda for a meeting of a 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.

### **3.2.4 Motions to be seconded (Clause 246)**

A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to Clauses 243 (2) (see 3.2.1) and 250 (5) (see 3.2.8).

### **3.2.5 How subsequent amendments may be moved (Clause 247)**

If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the Council at any one time.

### **3.2.6 Motions of dissent (Clause 248)**

1. A Councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
2. If a motion of dissent is carried, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
3. Despite clause 250 (see 3.2.8), 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.



**3.2.7 Questions may be put to Councillors and Council employees (Clause 249)**

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

**3.2.8 Limitation as to number of speeches (Clause 250)**

1. A Councillor who, during a debate at a meeting of a council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
2. A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
3. A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than five 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 minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
4. Despite subclauses (1) and (2), a Councillor may move that a motion or an amendment be now put:
  - a) if the mover of the motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it, or
  - b) if at least two Councillors have spoken in favour of the motion or amendment and at least two Councillors have spoken against it.
5. The chairperson must immediately put to the vote, without debate, a motion moved under subclause (4). A seconder is not required for such a motion.
6. If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause (1).
7. If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed.

**3.2.9 Voting at Council meetings (Clause 251)**

1. A Councillor who is present at a meeting of a council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
2. If a Councillor who has voted against a motion put at a council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.
3. The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two Councillors rise and demand a division.
4. When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes.



5. Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in any election by Councillors for mayor or deputy mayor is to be by secret ballot.

*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 and clause 3 of Schedule 7). Clause 3 of Schedule 7 also makes it clear that "ballot" has its normal meaning of secret ballot.*

### **3.2.10 Recording of voting on planning matters (Section 375A)**

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 plan under that Act, but
  - b) not including the making of an order under Division 2A of Part 6 of that Act.
2. The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the Councillors who supported the decision and the names of any Councillors who opposed (or are taken to have opposed) the decision.
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.
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.
5. This section extends to a meeting that is closed to the public.

### **3.2.11 Representations by members of the public closure of part of meeting (Clause 252)**

1. A representation at a Council meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period of three minutes, immediately after the motion to close the part of the meeting is moved and seconded.
2. That period is as fixed by the Council's code of meeting practice or (if the Council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the Council.

### **3.2.12 Resolutions passed at closed meetings to be made public (Clause 253)**

If a council passes a resolution during a meeting, or 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.

### **3.2.13 Matters to be included in minutes of council meeting (Clause 254)**

The General Manager must ensure that the following matters are recorded in the Council's minutes:

- a) details of each motion moved at a council meeting and of any amendments moved to it,
- b) the names of the mover and seconder of the motion or amendment,
- c) whether the motion or amendment is passed or lost.



### **3.3 Policy - Provisions**

#### **3.3.1 Conduct of Business by Exception**

In order to facilitate efficient, effective and comprehensive discussion on agenda items, Council will deal with those items by way of 'Exception Reporting'. The 'Exception Reporting' procedure will be as follows:

1. Following discussion by Council of Item 7) 'Mayoral Minutes' in the Ordinary Business of the meeting, the Chairperson will introduce the item 8) 'Exception Reports'.
2. Councillors shall advise the General Manager of those items for discussion, including confidential items and minutes of committees, by 3pm on the day of the meeting.
3. Exception Reports cannot include Confirmation of Minutes, Mayoral Minutes, Planning Decisions, Notices of Motion, Response to Questions from Previous Meeting and Questions for Next Meeting.
4. The General Manager will cause a list of those agenda items to be displayed during the meeting for reference by elected members and members of the public present.
5. Those agenda items not raised for discussion by the elected members, including minutes of committees, will be moved by the chairperson for adoption as presented in the business papers. Upon resolution by Council, those matters moved by the chairperson will be adopted as decisions by Council. The same process shall apply in confidential session in respect of confidential items.
6. Those agenda items identified by Councillors for discussion and listed by the General Manager will be determined in the following manner:
  - a) The chairperson will identify each item for discussion by Council.
  - b) The chairperson will call for a motion on the item.
  - c) The chairperson will call for speakers against the motion. Should no Councillor elect to speak against the item, the chairperson will then put the motion.
  - d) The chairperson will invite the mover of the motion to speak followed by a speaker in opposition. The chairperson will then invite a speaker in favour, followed by speaker in opposition. The mover will be given the right of reply. At the completion of the right of reply the motion will be put.
  - e) The same process will be repeated for an amending motion.

#### **3.3.2 Voting at meetings**

Voting at an ordinary meeting must be by open means.

An electronic voting system has been installed in the Council Chambers and the chairperson at his or her discretion, may elect to request Councillors to vote using this system if a division is likely.

Otherwise, Councillors shall vote by voice or by a show of hands. Any Councillor present in the Council Chamber room but not expressing a voting preference shall be deemed to have voted in the negative.

#### **3.3.3 Voting in an election**

Voting in an election at a Council meeting, must be by open means. However, there is an exception that Councillors can elect the mayor or deputy mayor by secret ballot.

#### **3.3.4 Mode of addressing Council**

Councillors shall seek the call to speak by using the electronic light system, raising their hand or rising in their place. Councillors may address the meeting while remaining seated or standing, and address their remarks through the chairperson



### **3.3.5 Presence of Councillors**

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 Chambers foyer is not regarded as being in the Council Chamber.

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.

### **3.3.6 Questions**

All questions from Councillors to Councillors or Council staff, should be put categorically and without any argument. Discussion is not permitted in respect of any reply or refusal to reply to any questions. Councillors should keep the number of questions to a minimum.

### **3.3.7 Mode of addressing Council by the public**

Hawkesbury City Council actively encourages participation of residents in the decision making process and is happy to hear from people regarding matters raised in the business paper.

Members of the public may address Council on any items in the business paper other than the Confirmation of Minutes; Responses to Questions from Previous Meeting; Mayoral Elections; Deputy Mayoral Elections and Committee Elections.

The procedure for addressing Council is as follows:

1. All persons wishing to speak on an item in the business paper must make an application to do so. Each speaker is required to complete an application form indicating whether they are speaking 'for' or 'against' a recommendation on the business paper.  
  
The application form will include an undertaking, signed by the person wishing to speak, to comply with their stated intention, i.e. to speak either 'for' or 'against' a recommendation in the business paper' and to refrain from any insult, allegation or personal reflection against any person, present or not, during the course of their address to Council and any answers they give to questions from Councillors.  
  
Persons intending to apply for approval to address Council must lodge the application form online/email, in person, or by facsimile, by 3pm on the day of the meeting to enable scheduling of items. Persons without access to online or facsimile facilities may contact Council by telephone to discuss their application to speak at the meeting.  
  
Notwithstanding the above, the applicant/owner or nominated representative is entitled to speak if an application is made in accordance with this Code and will be granted permission as one of the three positions allocated either 'for' or 'against' depending upon the terms of the recommendation.
2. A maximum of three speakers 'for' and three speakers 'against' a recommendation may address Council to support their position. The proponent or applicant, supporters or other interested parties to a maximum of three are given five minutes each to address Council.
3. All speakers must state their name, organisation if applicable and their interest in the matter before speaking.
4. Items subject to public address will be heard in the order as outlined in Clause 2.3.6.
5. In relation to planning decisions, the applicant or proponent shall speak first followed by persons in favour of the proposal and thence those opposed to the proposal. An applicant to a planning decision Item shall be given the right to respond to any new material raised only, for a period of two minutes.
6. At meetings where applications for more than 20 speakers to Council have been received, a person should speak only on one item unless granted permission by the chairperson. The chairperson will have regard to the circumstances of each case, taking into account such factors as the nature of the interest in the matter e.g. applicant, neighbour; and the number of speakers on the item or collectively on the agenda.





7. At the conclusion of an address by a member or members of the public on an item on the agenda, the Council will then proceed to discuss and determine that item and this procedure shall be repeated for each of these items that are subject to an address by a member or members of the public, unless determined otherwise by Council
8. In the case of extraordinary meetings (but for the exceptions outlined previously in this Clause), Council may resolve to increase the number of speakers permitted to address Council, and to amend the normal five minute maximum speaking time. The total amount of time allocated for speakers must not exceed 60 minutes for each item, in addition to no more than 20 minutes provided for speakers, to answer questions from Councillors and no more than ten minutes for a right of reply.
9. The chairperson may deal with issues concerning the relevance of the address to the matter being considered in accordance with 4.3.2.
10. Councillors may ask questions of members of the public who address Council in order to clarify their understanding of the speaker's view or to seek specific additional information. All Councillor questions to, and answers from speakers are limited to a total time of two minutes per speaker.

Similar to 3.2.7, Councillors should have the same regard for members of the public and put all such questions to speakers directly, succinctly and without argument.

### **3.3.8 Inspections**

Councillors are at liberty to carry out inspections of items listed for consideration on business papers.

Whenever specifically resolved by the Council, on-site inspections of properties or other matters relevant to an item on the business paper will be arranged by the General Manager for during or after the meeting (unless otherwise resolved).

### **3.3.9 Conferences**

The Council may from time to time resolve to hold conferences or public meetings with members of the public involved in the matter, in order to assist with the determination of a particular matter. Those members of the public involved in the matter are to be notified in writing, by facsimile, telephone, or electronic means as appropriate or by public notice of the meeting not less than three working days prior to the conference.

### **3.3.10 Questions for next meeting**

1. At all Council meetings, each Councillor may ask questions for the next Council meeting under the segment of the business paper designated for that purpose. The Mayor or chairperson of the meeting may exercise discretion in limiting questions or ruling any question out of order.
2. Questions for the next meeting should relate to matters concerning items not on the business paper of the meeting where the question is raised.
3. The chairperson must not permit discussion or any reply to a question under this clause.
4. Councillor questions for the next meeting and responses shall be included on the next Council meeting's business paper or, if this is not possible, the one following the next or an explanation given as to the reasons for delay and anticipated time of final response.
5. The subsequent reports responding to the questions are not subject to public address at the meeting answered.
6. This clause does not apply to an extraordinary meeting of the Council.
7. Nothing in this clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting.



**3.3.11 Communication between Councillors and public**

During Council meetings, members of the public are not permitted to approach Councillors or Council staff whilst around the Council tables. Any discussions between Councillors and members of the public during Council meetings must be held outside the Council Chambers. No communication between Councillors and members of the public is permitted within the Council Chambers, once the meeting has commenced.

**3.3.12 Reporting of development applications to Council**

Councillors can request any development application currently lodged with Council but not yet determined, to be reported to Council for consideration. Councillors must request in writing to the Director City Planning that the development application be reported to Council.





## **4. Maintaining order at Meetings**

### **4.1 Local Government Act 1993 - Provisions**

#### **4.1.1 Conduct of meetings of councils and committees (Section 360)**

1. The regulations may make provisions with respect to the conduct of meetings of councils and committees of councils of which all the members are Councillors.
2. Council may adopt a code of meeting practice that incorporates the regulations made for the purposes of this section and supplements those regulations with provisions that are not inconsistent with them.
3. Council and a committee of the Council of which all the members are Councillors must conduct its meetings in accordance with the code of meeting practice adopted by it.

### **4.2 Local Government (General) Regulation 2005 - Provisions**

#### **4.2.1 Questions of order (Clause 255)**

1. The chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
2. A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
3. The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.
4. The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

#### **4.2.2 Acts of Disorder (Clause 256)**

1. A Councillor commits an act of disorder if the Councillor, at a meeting of Council or a committee of Council:
  - a) contravenes the Act or any regulation in force under the Act, or
  - b) assaults or threatens to assault another Councillor or person present at the meeting. or
  - c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or committee, or addresses or attempts to address the Council or committee on such a motion, amendment or matter, or
  - d) insults or makes personal reflections on or imputes improper motives to any other Councillor, or
  - e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or committee into contempt.
2. The chairperson may require a Councillor:
  - a) to apologise for an act of disorder referred to in a subclause 1 (a) or (b), or
  - b) to withdraw a motion or an amendment referred to in subclause 1 (c) and, where appropriate, to apologise without reservation, or
  - c) to retract and apologise without reservation for an act of disorder referred to in subclause (1) (d) or (e).
3. A Councillor may, as provided by section 10 (2) (a) or (b) of the Act (*see 2.1.2*), be expelled from a meeting of a council for having failed to comply with a requirement under subclause (2). The expulsion of a Councillor from the meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder concerned.



**4.2.3 How disorder at a meeting may be dealt with (Clause 257)**

1. If disorder occurs at a meeting of a council, the chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors.
2. A member of the public may, as provided by section 10 (2) (a) or (b) of the Act (see 2.1.2), be expelled from a meeting of the Council for engaging in or having engaged in disorderly conduct at the meeting.

The Chairperson shall have the authority to expel a member of the public for disorderly conduct.

**4.2.4 Power to remove persons from Meeting after expulsion (Clause 258)**

If a Councillor or a member of the public fails to leave the place where a meeting of a council is being held:

- a) immediately after the Council has passed a resolution expelling the Councillor or member from the meeting, or
- b) where the Council has authorised the person presiding at the meeting to exercise the power of expulsion-immediately after being directed by the person presiding to leave the meeting;

A police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the Councillor or member from that place and, if necessary, restrain the Councillor or member from re-entering that place.

**4.3 Policy - Procedures**

**4.3.1 Order at meetings**

Councillors and staff shall be out of order if they:

1. move any motion or amendment which is beyond the legal jurisdiction of the Council, or
2. act contrary to the provisions of the *Local Government Act*, the *Local Government (General) Regulation*, this Code of Meeting Practice or Code of Conduct, or
3. make insults or personal reflections or impute improper motives to any other Councillor, or staff member, or
4. continually make frivolous or vexatious points of order, or
5. repeatedly interject during the course of debate, or
6. use rude or offensive language or gestures, or
7. dispute a ruling of the Chairperson without first moving a motion of dissent.

**4.3.2 Relevance in debate**

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.
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 (1) above, to deal with members of the public who introduce irrelevant material.



## 5. Committees

### 5.1 Local Government Act 1993 - Provisions

#### 5.1.1 Committee of Council (Section 373)

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

### 5.2 Local Government (General) Regulation 2005 - Provisions

#### 5.2.1 Committee of the whole (Clause 259)

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

#### 5.2.2 Council may establish committees (Clause 260)

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

#### 5.2.3 Functions of committees (Clause 261)

Council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions.

#### 5.2.4 Notice of committee meetings to be given (Clause 262)

1. The General Manager of a council must send to each Councillor, at least three days before each meeting of the committee, a notice specifying:
  - a) the time and place at which and the date on which the meeting is to be held, and
  - b) the business proposed to be transacted at the meeting.
2. However, notice of less than three days may be given of a committee meeting called in an emergency.



**5.2.5 Non-members entitled to attend committee meetings (Clause 263)**

1. A Councillor who is not a member of a committee of a council is entitled to attend, and to speak at, a meeting of the committee.
2. However, the Councillor is not entitled:
  - a) to give notice of business for inclusion in the agenda for the meeting, or
  - b) to move or second a motion at the meeting, or
  - c) to vote at the meeting.

**5.2.6 Representations by members of the public closure of part of meeting (Clause 264)**

1. A representation at a committee meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period of five minutes immediately after the motion to close the part of the meeting is moved and seconded.
2. That period is as fixed by the Council's Code of Meeting Practice or (if the Council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the Council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.

**5.2.7 Procedure in committees (Clause 265)**

1. Subject to subclause (3), each committee of Council may regulate its own procedure.
2. Without limiting subclause (1), a committee of 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.
3. Voting at a committee meeting is to be by open means (such as by voices or by show of hands).

**5.2.8 Committees to keep minutes (Clause 266)**

1. Each committee of 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.
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.

**5.2.9 Chairperson and deputy chairperson of committees (Clause 267)**

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



2. Council may elect a member of a committee of the Council as deputy chairperson of the committee. If the Council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
3. If neither the chairperson nor the deputy chairperson of a committee of Council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
4. The chairperson is to preside at a meeting of a committee of Council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

**5.2.10 Absence from committee meetings (Clause 268)**

1. A member ceases to be a member of a committee if the member (other than the Mayor):
  - a) has been absent from three consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
  - b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
2. Subclause (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.*

**5.2.11 Reports of committees (Clause 269)**

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.
2. The recommendations of a committee of the Council are, so far as adopted by the Council, resolutions of the Council.
3. If a committee of 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 meeting of the Council.

**5.2.12 Disorder in committee meetings (Clause 270)**

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

**5.2.13 Certain persons may be expelled from Council vommittee meetings (Clause 271)**

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



## **5.3 Policy Provisions**

### **5.3.1 Establishment of committees and appointment of members**

The Council may establish committees for any specific purposes or functions as it considers necessary. The committee structure is to be reviewed annually in conjunction with the extraordinary meeting to elect the Mayor and Deputy Mayor for the ensuing two year period. If there is no extraordinary meeting scheduled to elect the Mayor and Deputy Mayor for that particular year, the committee structure is to be reviewed at the second ordinary meeting in September. Committee members are to be appointed at the same meeting or at any other ordinary meeting of Council in the case of vacancies arising or the establishment of a new committee.

### **5.3.2 Committee of the whole - Closed meeting**

1. When Council passes a resolution during a closed meeting or part of a meeting, the chairperson must make public the resolution as soon as practicable after the meeting or part has ended. This is to ensure that all Council decisions are disclosed to the public.
2. The resolution or recommendation must be reported to the next Council meeting. This is to ensure the public are aware of the committee's recommendations or decisions.
3. In some circumstances commercial or legal issues will determine when it is practicable to release details. However, as a general rule the public should be kept informed of committee or closed session resolutions in an adequate and timely manner.

### **5.3.3 Committee of the whole - Declaration of interest**

Whenever a matter comes before Council that is determined by committee of the whole any Councillor declaring an interest in the matter, must vacate the Chamber while that issue is being determined.



## 6. Record of Meetings

### 6.1 Local Government Act 1993 and subsequent amendments - Provisions

#### 6.1.1 Public access to correspondence and reports (Section 11)

1. 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.
2. This section 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.
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) (see 3.1.10), are to be treated as confidential.

#### 6.1.2 Minutes (Section 375)

1. The Council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council.
2. The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting.

### 6.2 Local Government (General) Regulation 2005- Provisions

#### 6.2.1 Disclosure and misuse of information - Prescribed circumstances (Clause 412)

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

#### 6.2.2 Inspection of the minutes of a Council or committee (Clause 272)

1. An inspection of the minutes of Council or committee of 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.
2. The General Manager must ensure that the minutes of the Council and any minutes of a committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

#### 6.2.3 Recording of meeting of Council or committee prohibited without permission (Clause 273)

1. A person may use a tape recorder to record the proceedings of a meeting of a Council or a committee of a Council only with the authority of the Council or committee.
2. A person may, as proved by section 10 (2) (a) or (b) of the Act (see 3.1.10), be expelled from a meeting of a Council or a committee for using or having used a tape recorder in contravention of this clause.

The chairperson shall have the authority to determine if a member of the public shall be expelled.



3. If any such person, after being notified of such 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 necessary, remove the first-mentioned person from that place and, if necessary restrain that person from re-entering that place.
4. In this clause, 'tape recorder' includes video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

All mobile phones in the Chamber and Public Gallery are to be turned off or switched to silent/vibrate. Failure to do so may be treated as an act of disorder.

### 6.3 Policy Provisions

#### 6.3.1 *Minutes, recordings and podcasting of Council meetings*

1. For the purpose of compiling the minutes of a meeting of Council, each meeting will be recorded, except those "Confidential Matters" referred to in Section 10A(2) of the Act. The recordings will be destroyed after the adoption of the minutes by Council or one year after they were created (whichever is the later).
2. Council will podcast all meetings of Council except those "Confidential Matters" referred to in Section 10A(2) of the Act. Council podcasts of meetings will be kept for one year and will be made available via Council's website.
3. All Business Papers for meetings of the Council will state that the meeting is being recorded and will be podcasted as soon as practically possible after the meeting. Appropriate signs will be displayed in the Council Chambers and at the entry of the Chambers.
4. The Chairperson will inform the public that the meeting is being audio recorded for administrative purposes.
5. The Chairperson will inform the public that the recording will also be used to upload a podcast of the meeting as soon as practically possible after the meeting.
6. Council accepts no liability for any defamatory or offensive statements. In this regard, all meeting attendees are required to abide by the standards of conduct outlined in this Code.
7. The recordings or podcasts are protected by copyright and owned by Hawkesbury City Council. No part may be copied or recorded or made available to others without the prior written consent of the Council's General Manager.
8. The recording or podcast is not, and shall not, be taken to be an official record of Hawkesbury City Council or of any meeting or discussion depicted therein. Only the official minutes may be relied upon as an official record of the meeting.
9. The signed official minutes of meetings can be viewed by the public under supervision of an employee designated by the General Manager. Adopted minutes will be displayed on Council's website.

#### 6.3.2 *Communication of Council decisions*

Details of Council resolutions shall be made available to the public as soon as practicable following the meeting, and not more than three working days after the meeting.





## 6.4 Other Matters

Any other ruling or interpretation not covered by this Code of Meeting Practice or the *Local Government Act 1993* shall be determined by the meeting chairperson or by resolution of Council or rules of Standing Order of the NSW Parliament.

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*.



## 7. Annexure A – Pecuniary Interest

### 7.1 Local Government Act 1993 – Provisions

### 7.2 Who are "Designated Persons"? (Section 441)

For the purposes of this Chapter, *designated persons* are:

1. the General Manager;
2. other senior staff of the Council;
3. a person (other than a member of the senior staff of the Council) who is a member of staff of the Council or a delegate of the Council and who holds a position identified by the Council as the position of a designated person because it involves the exercise of functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest;
4. a person (other than a member of the senior staff of the Council) who is a member of a committee of the Council identified by the Council as a committee whose members are designated persons because the functions of the committee involve the exercise of the Council's functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

### 7.3 What is a "Pecuniary Interest"? (Section 442)

1. For the purposes of the Chapter, 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 (see 7.4).
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 the matter or if the interest is a kind specified in Section 448 (see 7.9).

### 7.4 Who has a Pecuniary Interest? (Section 443)

1. For the purposes of this Chapter, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
  - a) the person; or
  - b) the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, or
  - c) a company or other body of which the person, or a nominee, partner or employer of the person, is a member.

*Note: "De facto partner" is defined in section 21C of the [Interpretation Act 1987](#).*

#### (2) (Repealed)

2. However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (1)(b) or (c):
  - a) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer 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.

### **7.5 What disclosures must be made by a Councillor? (Section 444)**

A Councillor:

- a) must prepare and submit written returns of interests in accordance with Section 449; and
- b) must disclose pecuniary interests in accordance with Section 451 (see 3.1.8).

### **7.6 What disclosures must be made by a designated person? (Section 445)**

A designated person:

- a) must prepare and submit written returns of interest in accordance with Section 449; and
- b) must disclose pecuniary interests in accordance with Section 459.

### **7.7 What disclosures must be made by a member of a Council committee? (Section 446)**

A member of a Council committee, other than a committee that is wholly advisory, must disclose pecuniary interests in accordance with Section 451 (see 3.1.8).

### **7.8 What disclosures must be made by Council advisers? (Section 447)**

A person giving advice to the Council at a Council or Council committee meeting must disclose pecuniary interests in accordance with Section 456.

### **7.9 What interests do not have to be disclosed? (Section 448)**

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

- a) an interest as an elector;
- b) an interest as a ratepayer or person liable to pay a charge;
- c) 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 generally, or to a section of the public that includes persons who are not subject to this Part;
- d) an interest in any matter relating to the terms on which the provisions 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,
- e) an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not);
- f) 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;



- g) 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 the permissible uses of:
  - (i) 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 any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise); or
  - (ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i), if the person or the person, company or body referred to in Section 443(a)(b) or (c) would by reason of the proprietary interest have a pecuniary interest in the proposal,
- h) 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 in the company,
- i) 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) or the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership,
- j) 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 to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreement 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:
  - (i) the performance by the Council at the expense of the relative of any work or service in connection with roads or sanitation,
  - (ii) security for damage to footpaths or roads,
  - (iii) any other service to be rendered, or act to be done, by the Council or under any Act conferring functions on the Council or by or under any contract,
- k) an interest relating to the payment of fees to Councillors (including the Mayor and Deputy Mayor),
- l) 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,
- m) an interest relating to an 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,
- n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,
- o) 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,
- p) 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.

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