

POLICY NAME: DRAFT REVIEW
CODE OF MEETING PRACTICE

POLICY REF: C07

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PART 1 - PRELIMINARY

OBJECTIVE

The Objectives of the Code of Meeting Practice are to ensure the following:

- that Council and Committee meetings are conducted in an orderly, consistent and efficient manner;
- that Council and Committee meetings are conducted according to the principles of procedural fairness and due process;
- that Councillors have an equal opportunity to fully participate in the meeting, with respect shown for differing views;
- that Councillors fully understand their rights and obligations as participants in meetings of Council; and
- that proceedings are transparent and understandable to all persons participating in and observing Council and Committee meetings.

BACKGROUND

The Code of Meeting Practice is made pursuant to section 360(2) of the Act. The Code incorporates relevant provisions of the Regulation and the Act.

In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.

Amendments to this Code must be advertised for a period of at least 42 days prior to any decision by the Council to ratify such amendments.

DEFINITIONS

In the Code of Meeting Practice the following definitions apply:

amendment	in relation to an original motion, means a motion moving an amendment to that motion.
chairperson	(a) in relation to a meeting of the Council - means the person presiding at the meeting as provided by clause 3.6 (1) of this Code; and (b) in relation to a meeting of a committee of a council - means the person presiding at the meeting as provided by clause 7.8 of this Code.
committee	in relation to a Council, means a committee established under clause 7.2 of this Code or the council when it has resolved itself into a committee of the whole.
councillor	includes a member of the governing body.

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record	refers to any document or other source of information compiled, recorded or stored in written form or on film, or by electronic process, or in any other manner or by any other means.
year	refers to the period from 1 July to the following 30 June.
the Code	refers to the Ballina Shire Council Code of Meeting Practice.
the Act	refers to the Local Government Act 1993 as amended.
the Regulation (Reg)	refers to the Local Government (General) Regulation 2005.

APPLICATION OF CODE

This Code applies to:

- Councillors
- Council employees
- Committees of Council
- Community members

This Code should be read in conjunction with the following documents which have been employed when preparing the Code:

- Council's Code of Conduct
- Local Government Act 1993 (NSW)
- Local Government (General) Regulation 2005
- The Local Government Planning Legislation Amendment (Political) Donations Act 2008
- DLG Model Code of Conduct & Guidelines (June 2008)
- DLG Meeting Practice Note No. 16 (Nov 2005)
- DLG Promoting Better Practice Report - Ballina Shire Council (Oct 2008)
- DLG Publication - Engaging with local Aboriginal communities: A resource Kit for Local Government in NSW (2007)

PART 2 - CONVENING OF AND ATTENDANCE AT COUNCIL MEETINGS

2.1 How often does Council meet?

- (1) The Council is required to meet a minimum of 10 times each year, each time in a different month. **(s365 of the Act)**
- (2) There will be one Ordinary Meeting of the Council, held on the fourth Thursday, each month, commencing at 9:00 am with the exception of the December meeting which will be held on the third Thursday. Meetings will be held in the Council Chamber, Corner of Cherry and Tamar Streets, Ballina.
- (3) Council can vary meeting times through the consideration of a Notice of Motion or consideration of a report on this matter.

2.2 Notice of Meetings

To Councillors:

- (1) The General Manager of the Council must ensure that each Councillor receives, at least 3 days before each meeting of the Council, a notice specifying the time, place and date on which the meeting is to be held and the business proposed to be transacted at the meeting.
- (2) Notice of less than 3 days may be given to each Councillor of an extraordinary meeting called in an emergency, but in no case shall notice of less than 24 hours be given.
- (3) A notice under this section and the agenda for, and the business papers relating to, the meeting may be given to a councillor in electronic form but only if all councillors have facilities to access the notice, agenda and business papers in that form. **(s367 of the Act)**

To the Public:

- (1) A notice of a meeting of a Council or of a committee must be published in a newspaper circulating in the area before the meeting takes place.
- (2) The notice must specify the time and place of the meeting.
- (3) Notice of more than one meeting may be given in the same notice.
- (4) The requirement to advertise meetings does not apply to an extraordinary meeting of a Council or Committee. **(Reg 232)**

2.3 Quorum

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. **(s368 of the Act)**

2.4 What happens when a quorum is not present

- (1) A meeting of the Council must be adjourned if a quorum is not present:
 - (a) within half an hour after the time designated for the holding of the meeting; or
 - (b) at any time during the meeting.
- (2) in either case, the meeting must be adjourned to a time, date and place fixed:
 - (a) by the chairperson; or
 - (b) in his or her absence - by the majority of the councillors present; or
 - (c) failing that, by the General Manager.
- (3) The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the councillors present. **(Reg 233)**

2.5 Presence at Council meetings

A councillor cannot participate in a meeting of the council unless personally present at the meeting. **(Reg 235)**

PART 3 - PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

3.1 Order of business

- (1) Each Ordinary Meeting of Council will commence with the performance, by a school or other organisation, of the Australian National Anthem.
- (2) After the National Anthem, the Chairperson will provide an 'Acknowledgement of Country' to show respect for the Traditional Custodians of the land on which the meeting is taking place. The following wording, as preferred by Jali Aboriginal Land Council, should be read by the Chairperson at the commencement of each Meeting:

I would like to respectfully acknowledge past and present Bundjalung peoples who are the traditional custodians of the land on which this meeting takes place.
- (3) At a meeting of a Council (other than an extraordinary meeting), the general order of business is (except as provided by Regulation), as fixed by Schedule 1 of Council's Code of Meeting Practice or as fixed by resolution of the Council. (Schedule 1 attached).
- (4) The order of business fixed under subclause (3) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.
- (5) Only the mover of a motion referred to in subclause (4) may speak to the motion before it is put. **(Reg 239)**

3.2 Agenda and Business papers for Council meetings

- (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 (or the Deputy Mayor if acting for 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 and issued to Councillors before the meeting. **(Reg 240(1-3))**

~~3.3 Questions Without Notice~~

- ~~(1) "Questions without Notice" provides councillors the opportunity to ask staff questions that relate to minor matters only. Councillors are allowed no more than two "Questions Without Notice" items at each meeting. [Amended 27/1/08/29]~~
- ~~(2) No expenditure may be authorised in "Questions Without Notice". [Amended 27/1/08/29]~~

3.3 Giving notice of business

- (1) The Council must not transact business at a meeting of the Council:
- (a) unless a councillor has given notice to the General Manager of the business in writing by 9 days preceding the meeting
 - (b) unless notice of business has been sent to the councillors
- (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
 - (c) is a matter or topic put to the meeting as a Mayoral Minute
 - (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 a Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
- (a) a motion is passed to have the business transacted at the meeting; and
 - (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.
- Such a motion can be moved without notice.
- (4) Only the mover of a motion referred to in subclause (3) can speak to the motion before it is put. **(Reg 241)**

- (5) Requests for funding of community groups or individuals from Section 356 of the Act cannot be dealt with by Motion on Notice.

3.4 Agenda for extraordinary meetings

- (1) The General Manager must ensure that the agenda for an extraordinary meeting of a 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 a Council even though due notice of the business has not been given to the councillors. However, this can happen only if:
 - (a) a motion is passed to have the business transacted at the meeting, and
 - (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.
- (3) Only the mover of a motion referred to in subclause (2) can speak to the motion before it is put. **(Reg 242)**

3.5 Extraordinary meetings

- (1) The Mayor may call extraordinary meetings of the Council in accordance with clause 2.2 of this Code.
- (2) If the Mayor receives a request in writing signed by at least 2 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 the receipt of the request. **(s366 of the Act)**

3.6 Chairperson of Council meetings

- (1) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor presides at meetings of the Council.
- (2) If the Mayor and the Deputy Mayor are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the Council. **(s369 of the Act)**
- (3) If no chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting. **(Reg 236(1))**
- (4) The election must be conducted:

- (a) by the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election; or
- (b) if neither of them is present at the meeting or there is no General Manager or designated employee - by the person who called the meeting or a person acting on his or her behalf. **(Reg 236(2))**

3.7 Chairperson to have precedence

When the chairperson rises, or if unable to rise, raises a hand during a meeting of the Council:

- (a) any councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat; and
- (b) every councillor present must be silent to enable the chairperson to be heard without interruption. **(Reg 237)**

3.8 Chairperson's duty with respect to motions

- (1) It is the duty of the chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting.
- (2) The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- (3) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected. **(Reg 238)**

3.9 Mayoral minutes

- (1) If the Mayor (or the Deputy Mayor, if acting for the Mayor) is the chairperson at a meeting of a council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting 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, or the Deputy Mayor, if acting for 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 Deputy Mayor, if acting for the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council. **(Reg 243)**

3.10 Notice of motion - absence of mover

In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the Council:

- (a) any other councillor may move the motion at the meeting; or
- (b) the chairperson may defer the motion until the next meeting of the Council at which the motion can be considered. **(Reg 245)**

3.11 Motions to be seconded

A motion or an amendment cannot be debated unless or until it has been seconded, except in the case of a Mayoral Minute, and a motion for a motion or an amendment to be now put. **(Reg 243(2), 246 & 250(5))**

3.12 Amendments to Motions

- (1) A motion may be amended by way of a proposal brought before the meeting during debate on the motion.
- (2) An amendment that creates a direct negative is not permissible.
- (3) An amendment must be seconded to permit its consideration.
- (4) No more than one motion and one proposed amendment can be before the Council at any one time. However, amendments may be proposed (foreshadowed) to the proposed amendment for consideration in the event that the proposed amendment is defeated. No discussion on the foreshadowed amendment can take place until the amendment before the meeting has been dealt with.
- (5) If the proposed amendment (to the original motion) is carried it becomes the substantive motion. It would then be permissible for further amendments to be moved and seconded and debated.
- (6) If the proposed amendment (to the original motion) is lost an 'foreshadowed' amendment can then be moved, seconded and debated.

3.13 Motions of dissent

- (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 passed, 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) 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. **(Reg 248)**

3.14 Questions may be put to Councillors and Council employees

- (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. **(Reg 249)**

3.15 Limitation as to number of speeches

- (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.
- (2) A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- (3) A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- (4) Despite subclauses (1) and (2), a councillor who has not spoken on the subject 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 2 councillors have spoken in favour of the motion or amendment and at least 2 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 to be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed. **(Reg 250)**

3.16 Voting at Council meetings

- (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 2 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. **(Reg 251)**

Note: Part 11 of this Regulation 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.

3.17 Recording of Voting on Planning Matters

- (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) 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.
- (4) This section extends to a meeting that is closed to the public. **(s375a of the Act)**

3.18 Decisions of the Council

A resolution 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. **(s371 of the Act)**

3.19 Rescinding or altering resolutions

- (1) A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with this Code.
- (2) If notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.
- (3) If a motion has been negatived by a council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with this Code.
- (4) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negatived by the council, must be signed by 3 councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negatived, as the case may be.

- (5) If a motion to alter or rescind a resolution has been 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 3 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. **(s372 of the Act)**
- (8) Any such notice of rescission should be accompanied by a qualified motion outlining any alternative proposal.
- (9) The signatories of any such rescission motion will be given the first opportunity to speak to the motion.

3.20 Certain circumstances do not invalidate Council decisions

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

- (a) a vacancy in a civic office; or
- (b) a failure to give notice of the meeting to any councillor or a committee member; or
- (c) any defect in the election or appointment of a councillor or a committee member; or
- (d) a failure of a councillor or a committee member to disclose a pecuniary interest at a Council or a committee meeting; or
- (e) a failure to comply with this Code. **(s374 of the Act)**

PART 4 - CLOSURE OF MEETINGS

4.1 Representations by members of the public – closure of part of meeting

- (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 10 minutes immediately after the motion to close the part of the meeting is moved and seconded, however, this period may be extended by Council resolution to that effect. **(Reg 252 & 264)**

4.2 Closure of part of meeting

- (1) Council may resolve into Closed (Confidential) Session and exclude the public and the press during a meeting or part of a meeting. The grounds for closing part of a meeting are detailed in section 10A and 10D of the Act. Council's practice is to resolve into the Committee of the Whole while meeting in a Closed Session.
- (2) Any recommendations arising from the Committee of the Whole and Closed Session will be reported to the Public by the General Manager when Council moves into Open Council and out of Committee of the Whole. Council is not taken to have adopted the recommendations until a motion for adoption has been made and passed.

PART 5 - KEEPING ORDER AT MEETINGS

5.1 Questions of order

- (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. **(Reg 255)**

5.2 Acts of disorder

- (1) A councillor commits an act of disorder if the councillor, at a meeting of the Council or a Committee of the Council:
 - (a) contravenes the Act or any regulation in force under the Act; or
 - (b) assaults or threatens to assault another councillor or person present at the meeting; or
 - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or committee, or addresses or attempts to address the Council or committee on such a motion, amendment or matter; or
 - (d) insults or makes personal reflections on or imputes improper motives to any other councillor; or
 - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or committee into contempt.
- (2) The chairperson may require a councillor:
 - (a) to apologise without reservation for an act of disorder referred to in 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 and 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, 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. **(Reg 256)**

5.3 How disorder at a meeting may be dealt with

- (1) If disorder occurs at a meeting of the Council, the chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This 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, be expelled from a meeting of a Council for engaging in or having engaged in disorderly conduct at the meeting. **(Reg 257)**

5.4 Power to remove persons from meeting after expulsion

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 of public 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 of the public from that place and, if necessary, restrain the councillor or member from re-entering that place. **(Reg 258)**

PART 6 - DISCLOSURE OF INTEREST

6.1 Conflict of Interests

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

6.2 What is a pecuniary interest?

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

- (5) Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

6.3 What is a non-pecuniary conflict of interests?

- (1) Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- (2) The matter of a report to council from the conduct review committee/reviewer relates to the public duty of a councillor or the general manager. Therefore, there is no requirement for councillors or the general manager to disclose a conflict of interests in such a matter.
- (3) The political views of a councillor do not constitute a private interest.

6.4 Managing non-pecuniary conflict of interests

- (1) Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.
- (2) If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 6.4.1.
- (3) How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.
- (4) As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:
 - (a) relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
 - (b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship

- (c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.
- (5) If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:
 - (a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official
 - (b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply
- (6) If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- (7) If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- (8) Despite clause 6.4.5(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 6.4.5(b) above.

6.5 Disclosures to be recorded

A disclosure made at a meeting of the council or council committee must be recorded in the minutes of the meeting. **(s453 of the Act)**

PART 7 - COUNCIL COMMITTEES AND COMMITTEE OF THE WHOLE

7.1 Committee of the whole

- (1) All the provisions of this Code relating to meetings of a 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 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. **(Reg 259)**

7.2 Council may establish committees

- (1) The Council may, by resolution, establish such committees it considers necessary.
- (2) A committee can consist of the Mayor and such other councillors/staff and other persons as are elected by the Councillors or appointed by the Council.
- (3) The quorum for a meeting of such 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. **(Reg 260)**

7.3 Functions of committees

A Council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions. **(Reg 261)**

7.4 Notice of committee meetings to be given

- (1) The General Manager of the Council must send to each councillor, at least 3 days before each meeting of the Committee, a notice specifying:
 - (a) the time and place at which and the date on which the meeting is to be held; and

- (b) the business proposed to be transacted at the meeting.
- (2) However, notice of less than 3 days may be given of a committee meeting called in an emergency. **(Reg 262)**

7.5 Non-members entitled to attend committee meetings

- (1) A councillor who is not a member of a committee of the Council is entitled to attend, and 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 at the meeting, or
 - (b) to move or second a motion at the meeting, or
 - (c) to vote at the meeting. **(Reg 263)**

7.6 Procedure in committees

- (1) Subject to subclause (3), each committee of the Council may regulate its own procedure.
- (2) Without limiting subclause (1), a committee of the Council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.
- (3) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands). **(Reg 265)**

7.7 Committees to keep minutes

- (1) Each committee of a Council must insure 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. **(Reg 266)**

7.8 Chairperson and deputy chairperson of committees

- (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) A council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
- (3) If neither the chairperson nor the deputy chairperson of a committee of a 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 a 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. **(Reg 267)**

7.9 Absence from committee meetings

- (1) A member ceases to be a member of a committee if the member (other than the Mayor):
 - (a) has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or
 - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- (2) Subclause (1) does not apply if all of the members of the Council are members of the committee. **(Reg 268)**

7.10 Reports of committees

- (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 a Council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the chairperson or General Manager 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. **(Reg 269)**

7.11 Disorder in committee meetings

The provisions of the Act and of the Regulation and this Code relating to the maintenance of order in Council meetings apply to meetings of committees of the Council in the same way as they apply to meetings of the Council. **(Reg 270)**

7.12 Certain persons may be expelled from Council committee meetings

- (1) If a meeting or part of a meeting of a committee of the Council is closed to the public in accordance with Section 10(A) of the Act, any person who is not a Councillor may be expelled from the meeting as provided by Section 10(2)(a) or (b) of the Act.
- (2) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council, committee or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place. **(Reg 271)**

PART 8 - MISCELLANEOUS

8.1 Matters to be included in minutes of Council meeting

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, including 'Confidential Committee of the Whole' sessions 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. **(Reg 254)**
- (d) All votes against a motion or amendment be recorded in the minutes
- (e) Full details of all pecuniary and non-pecuniary interests disclosures made at a meeting of the Council or Council Committee must be recorded in the minutes of the meeting. This is to include the type and nature of the interest.
- (f) Recording of Divisions.
- (g) Leave of absence.

Note: Section 375 (1) of the Act requires a Council to ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council (other provisions of this Regulation and of the Act require particular matters to be recorded in a Council's minutes).

8.2 Inspection of the minutes of a Council or committee

- (1) An inspection of the minutes of a Council or committee of a Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes.
- (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. **(Reg 272)**

8.3 Access to records

Councillors have access to council's records under the provisions of the Government Information (Public Access) Act 2009 (GIPA). In addition, a councillor may have a common law right, independent of these provisions, to see a document which is necessary in the exercise of the councillor's duty. That right does not extend to matters in which a councillor merely has a curiosity rather than an appropriate civic responsibility.

8.4 Recording of meeting of Council or committees

- (1) A person may record the proceedings of a meeting of Council or a committee of Council only with the authority of the Council or Committee.
- (2) A person may, as provided by Section 10(2)(a) or (b) of the Act, be expelled from the meeting of a council or a committee of a Council for using or having used a tape recorder in contravention of this clause.
- (3) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.
- (4) In this clause, tape recorder includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not. **(Reg 273)**
- (5) Live video relay of Open Ordinary Council Meetings are screened in the Foyer of Council's Customer Service Centre.
- (6) Council makes full audio and visual recordings of Ordinary Council meetings, excluding deputations, public question time and confidential session. In accordance with Proactive Release provisions of the Government Information (Public Access) Act 2009 these recordings are available to the public at a fee determined by Council.

8.5 Deputations to Council – Guidelines

- a) Deputations by members of the public may be made at Council meetings on matters included in the business paper. Deputations are limited to one speaker in the affirmative and one speaker in opposition. **Deputations will be limited to a maximum of two items on the agenda per person.** Requests to speak must be lodged in writing or by phone with the General Manager by noon on the day preceding the meeting. Deputations are given five minutes to address Council.
- b) Members of the public are advised that any documents tabled or given to Councillors during the meeting become Council documents and access may be given to members of the public in accordance with the requirements of the Government Information (Public Access) Act 2009.
- c) The use of powerpoint presentations and overhead projectors is permitted as part of the deputation, provided that the speaker has made prior arrangements with the General Manager's Office at the time of booking their deputation. The setup time for equipment is to be included in the total time of 5 minutes allocated for the deputation.

8.6 Public Question Time – Guidelines

- a) A public question time has been set aside during the Ordinary Meetings of the Council. Public Question Time is held at 12.45 pm but may be held earlier if the meeting does not extend to 12.45 pm.
- b) The period for the public question time is set at a maximum of 15 minutes.
- c) Questions are to be addressed to the Chairperson. The period is set aside for questions not statements.
- d) Questions may be on any topic, not restricted to matters on the agenda for the subject meeting.
- e) The Chairperson will respond to questions indicating that either the matter will be referred to staff for rectification (where the matter is of a minor or urgent nature) or referred to staff for report to a later meeting of the Council or a Committee.
- f) The Chairperson will manage the questions from the gallery to give each person with a question, a "turn". People with multiple questions will be able to ask just one before other persons with a question will be invited to ask and so on until single questions are all asked and, time permitting, the multiple questions can then be invited and considered.
- g) Recording of the questions will not be verbatim.
- h) The standard rules of behaviour in the Chamber will apply.
- i) Questions may be asked from the position in the public gallery.

8.7 Council Seal

- (1) The seal of a Council must be kept by the Mayor or the General Manager, as the Council determines.
- (2) The seal of a Council may be affixed to a document only in the presence of:
 - (a) the Mayor and the General Manager, or
 - (b) at least one Councillor (other than the Mayor) and the General Manager, or
 - (c) the Mayor and at least one other Councillor, or
 - (d) at least 2 Councillors other than the Mayor.

10.6 Policy (Review) - Code of Meeting Practice.DOC

- (3) The affixing of a Council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence.
- (4) The seal of a Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved (by resolution specifically referring to the document) that the seal be so affixed.
- (5) For the purposes of subclause (4), a document in the nature of a reference or certificate of service for an employee of the Council does not relate to the business of the Council. **(Reg 400)**

8.8 Food and Beverage

Food and beverage should not be consumed in the Council Chambers during the course of Ordinary and Extraordinary Council Meetings.

8.9 Mobile Phones

Mobile phones must be silenced during Council meetings.

PART 9 - REVIEW

The Code of Meeting Practice is to be reviewed within one year of the election of a new Council.

**SCHEDULE 1 - Order of Business
Ordinary Council Meeting Agenda**

- 1) Australian National Anthem
- 2) Acknowledgement of Country
- 3) Apologies
- 4) Confirmation of Minutes
- 5) Declarations of Interest and Reportable Political Donations
- 6) Deputations
- 7) Mayoral Minutes
- 8) Staff Reports
- 9) Public Question Time
- 10) Motions on Notice
- 11) Advisory Committee Minutes
- 12) Reports from Councillors on Attendance on Council's behalf
- ~~13) Questions Without Notice~~
- 13) Confidential Session

9/42 Southern Cross
 Drive Ballina
 24th October 2012.

The General Manager
 Ballina Shire Council,
 Ballina

Dear Mr Hickey.

After reading the Code of meeting practice at the September ^{meeting} I would like to make a submission on this matter.

Clause 3.1(3)3 Reference to Schedule.

As this matter (according to the business papers) is in breach of the local government act I fully concur that this matter be deleted from the meeting agenda.

Clause 8.5 Deputations

I agree this should be a maximum of 2 items only and no longer than 5 minutes as it makes things difficult for members of Council to keep fairly close to its schedule.

Clause 8.6 Public Question Time.

This item was put on the agenda for the benefit of the community, but as stated it is not often used. If a matter is really important then a phone call to one of their ward Councillors or the General Manager would answer their question or get the information for them.

Clause 8.8 Food and Beverage.

I feel this item must be strictly policed. There is a sign outside the Council chambers telling the public beverages (Tea/coffee) are not allowed into the chamber. Unfortunately the sign is too small and the general public just don't see it. What I think it needs is a sign the size of the board stating in big print the following:-

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NO FOOD OR BEVERAGES ALLOWED IN THE CHAMBER.

I note several Councillors have come into the meeting with a mug of coffee/tea in their hand. It would appear that there are two different standards - one for the Councillors and one for the public, even though both are in the one chamber. This I feel is not setting a good example.

Mobile Phones

I was pleased to note that Councillors are to keep their phones on silent. This I feel should also apply to persons sitting in the gallery and suggest that at the beginning of the Council Meeting that persons in the gallery be asked to put their mobile phones either turned off or put on silence. The Councillors don't need this type of interruption when discussing matters.

Thanking you,

Yours Sincerely

(Mrs) Betty Reynolds