



Randwick City
Council
a sense of community

Randwick City Council Code of Meeting Practice

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**Randwick City
Council**
a sense of community

**Code of Meeting Practice
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Randwick City Council Code of Meeting Practice

Introduction

This Code is made under the Local Government Act 1993 and in accordance with the Local Government (General) Regulation 2005 and subsequent amendments.

The object of this Code is to provide for the convening and conduct of meetings of Randwick City Council and of Committees of Council. The provisions of this Code are substantially based on the provisions of the Local Government Act, the Local Government (General) Regulation and Council policy decisions.

Council and all Committees of Council of which all members are Councillors must conduct their meetings in accordance with this Code (Section 360).

In adopting this Code of Meeting Practice, Randwick 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. 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;
3. 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;
4. Council meetings should comply with the basic organisation 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;

Part 1 - Preliminary

1. Citation

This Code may be cited as the "Code of Meeting Practice."

2. Commencement

This Code was first adopted by Council on Tuesday, 19 April 1994.

3. Definitions

In this Code -

Amendment, in relation to an original motion, means a motion moving an amendment to that motion;

Chairperson:

- (a) in relation to a meeting of Council - means the person presiding at the meeting as provided by section 369 of the Act (see Clause 19 of this Code); and
- (b) in relation to a meeting of a Committee of Council - means the person presiding at the meeting as provided by Clause 267 of the Local Government (General) Regulation 2005 (see Clause 56 of this Code);

Committee, in relation to Council, means a Committee appointed or elected by Council in accordance with Clause 260 of the Local Government (General) Regulation 2005 (see

Clause 49 of this Code) or Council when it has resolved itself into Committee of the Whole;

Councillor, is a person elected or appointed to civic office as a member of the governing body of Council and includes the Mayor;

General Manager, is the General Manager of Council;

Planning decisions, means a decision made in the exercise of a function of a Council under the Environmental Planning and Assessment Act 1979

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

the Act, means the Local Government Act 1993.

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

Part 2 – Convening of Council Meetings

4. Ordinary Meetings of Council

- (1) Council is required to meet at least ten (10) times each year, each time in a different month.
- (2) The Ordinary Meetings of the Council shall be held on the 4th Tuesday of each month (February to November) at 6.00pm in the Council Chamber, Town Hall, Avoca Street, Randwick and in accordance with Council's adopted meeting schedule.

5. Convening a meeting

A meeting cannot be held unless due notice in writing has been given to all members and a quorum is present (see Clauses 8 and 14 of this Code).

6. Calling of extraordinary meetings

Upon request by Councillors

- (1) If the Mayor receives a request in writing signed by at least two (2) Councillors (one of which may be the Mayor), the Mayor must call an extraordinary meeting of council to be held as soon as practicable, but in any event within 14 days after receipt of the request.
- (2) The purpose of the meeting must be stated in the Notice of the Meeting.

7. Public notice of meetings

- (1) Council shall 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. Meeting details are displayed weekly in the Council Column in the local press prior to the meeting.
- (2) Council and each such Committee must have available for the public at Council's offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business paper (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 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) with respect to the availability of business papers do not apply to the business papers for those items of business.
- (4) The copies of the business paper 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.
- (6) A notice given under this section or a copy of an agenda or of a business paper made available under this section may, in addition, be given or made available in electronic form.

8. Notice of meetings

- (1) Notice of all Ordinary and Extraordinary Meetings of the Council, and of all General (Standing) and Special Committees shall be given in writing and delivered by hand to each Councillor not less than three (3) days prior to the Meeting.
- (2) Notice of less than three (3) 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 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 and the agenda and business paper in that form.
- (4) Proceedings at a meeting of Council or a Committee are not invalidated because of a failure to give notice of the meeting to any Councillor or Committee member.

Part 3 – Business Papers for Meetings

9. Business Papers for Council Meetings

- (1) The General Manager must ensure that the agenda for a meeting of Council states:
 - (a) all matters to be dealt with arising out of the proceedings of former meetings of 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 before the meeting without notice; and
 - (c) any business of which due notice has been given, subject to sub-Clause 2 of Clause 9 of this Code.
- (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 Council or a Committee 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) of the Act applies are included in a business paper for the meeting concerned.
- (5) Copies of agendas and business papers for Council and Committee meetings (not being confidential business papers) will be available at Council's offices and at each meeting, for inspection or taking away by any persons free of charge. Copies of business papers will also be available for inspection at the Bowen, Randwick & Malabar Libraries and a copy of the agenda for the meeting will be available for viewing and downloading from Council's website (www.randwick.nsw.gov.au). The copies are to be available to the public as nearly as possible to the time they are available to Councillors.

10. Business Papers for Extraordinary Meetings

- (1) The General Manager must ensure that the agenda for an Extraordinary Meeting of Council deals only with matters stated in the notice of the meeting.
- (2) Despite Sub-Clause (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) Despite Clause 250 of the Regulation, only the mover of a motion referred to in Sub-Clause (2) can speak to the motion before it is put.

11. Items for Agenda

Closing Times

(1) Notices of Motions for Council Meetings

All Notices of Motion and all items intended for inclusion in the Agenda for consideration at any Meeting of the Council shall be delivered to, or sent by post, facsimile or email, so as to reach, the General Manager or the Public Officer of the Council in accordance with the following schedule:

- (a) Ordinary Meetings of the Council - Not later than 12.00 noon on Monday in the week preceding the meeting (ie. One week and one day prior to the meeting).
- (b) Extraordinary Meetings of the Council - Not later than 12 noon on the fourth (4th) day prior to the day of the Extraordinary Meeting, except where the Mayor, in accordance with Section 367(2) of the Act, deems there to be an urgent need for an Extraordinary Meeting.

(2) Meeting reports and distribution of agendas

Agenda reports for Ordinary Council Meetings, Administration & Finance Committee, the Community Services Committee, the Environment Committee, the Works Committee and the Planning Committee are to be with the Administration Division by 12 noon on the Thursday twelve (12) days before each meeting for release to Councillors and interested persons, where possible, on the Tuesday, one (1) week before meetings, with all applicants and objectors advised, where possible, on the Tuesday, one week before the meeting that would be considering their matter.

[Note: Minimum notice requirements are set out in Clause 8 of this Code]

(3) Late Items

As circumstances necessitate, reports not listed for consideration on the Business Paper may be tabled at an Ordinary Meeting. The General Manager is authorised to submit late agenda items.

Late reports should only be brought forward in the case of necessity and are to be forwarded to Councillors via email as well as facsimile no later than midday on the day prior to the meeting at which the item is to be considered.

For matters not listed on the Agenda of meetings and where less than three (3) days notice has been provided in accordance with Clause 8 of this Code, a motion of urgency will need to be passed by the Council

prior to the matter being considered. The Motion of Urgency is to include the reason why the matter is considered to be urgent.

(4) Requested Items

- (i) That Councillors requesting that an item, which is to be dealt with under delegated authority (**including development application that are subject to reviewable conditions**), be brought to Council for consideration, do so;
- a) in writing, signed by at least three (3) Councillors, to the General Manager; or
 - b) **by emailing the Public Officer of the Council without the necessity for a signature. It being noted that for an item to be validly requested and brought before Council, the Public Officer will need to receive three (3) individual emails from at least three (3) Councillors.**

OR

Items, which are to be dealt with under delegation, and which have not been the subject of a request to be brought before Council by at least three (3) Councillors, and for which the General Manager considers that compelling exception circumstances exist, he may bring such matters before Council.

- (ii) However, sub-clause (i) specifically excludes:
- the call up of Part 4A certificates, complying development certificates and building certificates under the Environmental Planning and Assessment Act 1979; and
 - the call up of a development application on the sole basis of a residential car parking space where the space does not comply with Australian Standard AS 2890.1 Parking Facilities or has a length of at least 5 metres, whichever is lesser.

12. Lodgement of Motions Pursuant to Notice (see Clause 11 for timeframes)

(1) Form giving Motions Pursuant to Notice

That every Motion Pursuant to Notice relating to any new subject, or matter not already before the Council shall distinctly state the precise object proposed, be duly signed by the member of the Council giving the Notice and be submitted to the General Manager in accordance with Clause 11 of this Code.

(2) Order of Motions Pursuant to Notice

That all Motions Pursuant to Notice shall be dated and numbered as received and shall be entered by the General Manager upon the Business Paper in the order in which they are received and, except upon resolution of the Council, all such Motions Pursuant to Notice shall be taken and considered in the order in which they appear on the Business Paper.

(3) Duplicate Motions

Should multiple motions be received from Councillors which have the same effect, the first motion received by the General Manager/Public Officer will be placed on the agenda with a notation advising that other motions having the same effect were subsequently received from other Councillors (the other Councillors to be specifically named).

(4) Withdrawal of Motions Pursuant to Notice

Motions Pursuant to Notice are unable to be withdrawn, by the Councillor(s) who have submitted the Motion(s), after the deadline for business paper preparation (which is 12noon on the Monday in the week preceding the meeting in question). Once a Notice of Motion has been listed on a Business Paper (which is taken to be at 12noon on the Monday in the week preceding the meeting in question) it cannot be removed or withdrawn and will lapse at the meeting in question if no Councillors are prepared to move/second it.

(5) Notice of Rescission Motion

That where relevant, every Notice of Motion to Rescind, duly given in accordance with the provisions of the Local Government Act or Regulations and submitted to the General Manager in accordance with this Code and not already dealt with by the Council, shall include, as a separate item, Notice of any Motion proposed to be brought forward subsequent upon the Motion of Motion to Rescind being carried by the Council (see also Clauses 43 of this Code).

Part 4 – Attendance at Council Meetings

13. What is the Quorum for a Meeting?

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.

(Randwick City Council has fifteen (15) Councillors. A quorum is eight (8) Councillors.)

14. What happens when a quorum is not present?

(1) A meeting of Council must be adjourned if a quorum (see definition at Clause 13 of this Code) 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 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 Council, together with the names of the Councillors present.

15. Presence at Council Meetings

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

In the event that a Councillor is physically within the Council Chamber, the Councillor is taken to be present at the meeting.

Protocol requires Councillors present at the meeting to be seated at the Council meeting table while the meeting is in progress.

16. Departure from Council Meetings

- (i) Councillors are required, on proposing to retire from a meeting of the Council for the remainder of that meeting, to give prior notice of the intended departure to the Chairperson.
- (ii) Prior to leaving their seat at a meeting of the Council, Councillors are required to seek permission of the Chairperson.

17. Who is entitled to attend meetings?

- (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) 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 of 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.

17a. Which parts of a meeting can be closed to the public?

- (1) A Council, or a Committee of the Council of which all the members are Councillors, may close to the public so much of its meeting as comprises:
 - (a) the discussion of any of the matters listed in Sub-Clause (2) below, 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.

- (3) A Council, or a Committee of the Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.
- (4) Members of the public may be allowed to make representations to or at a Council or Committee meeting for a period of up to three (3) minutes, immediately after the motion to close the part of the meeting
- (5) is moved and seconded, as to whether that part of the meeting should be closed at the discretion of the Council.

17b. Further limitations relating to closure of parts of meeting to public

- (1) A meeting is not to remain closed during the discussion of anything referred to in Section 10A(2) of the Act:
 - (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) of the Act 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) of the Act), 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) of the Act).
- (4) For the purposes 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 Director-General of the Department of Local Government.

17c. Notice of likelihood of closure not required in urgent cases

Part of a meeting of a Council, or of a Committee of the Council of which all the members are Councillors, may be closed to the public while the Council or Committee considers a

matter that has not been identified in the agenda for the meeting as a matter that is likely to be considered when the meeting is closed, but only if:

- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in Section 10A(2) of the Act, and
- (b) the Council or Committee, after considering any representations made under Section 10A(4) of the Act, 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.

17d. Grounds for closing part of meeting to be specified

- (1) The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.
- (2) The grounds must specify the following:
 - (a) the relevant provision of Section 10A(2) of the Act,
 - (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.

17e. Disclosure of Information at closed meetings

If a meeting or part of a meeting of Council is closed to the public in accordance with Section 10A(1) of the Act, a person must not without the authority of Council disclose otherwise than to Council or to a Councillor information with respect to the discussion at or the business of the meeting.

17f. Resolutions passed at closed meetings to be made public

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.

18. Attendance of General Manager at Meetings

- (a) The General Manager is entitled to attend, but not to vote at, any meeting of Council or any meeting of a Committee of Council of which all the members are Councillors.
- (2) The General Manager is entitled to attend a meeting of any other Committee of Council and may, if a member of the Committee, exercise a vote.
- (3) However, the General Manager may be excluded from a meeting of Council or a Committee while Council or a 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.

Part 5 – Procedure for the Conduct of Council Meetings

19. Who presides at meetings of Council?

- (1) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor (if any), presides at meetings of 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 the meeting of Council.
- (3) If no Chairperson is present at the meeting of 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.
- (4) The election must be conducted:
 - (a) by the General Manager or, in his or her absence, an employee of 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.

20. Chairperson to have precedence

- (1) When the Mayor enters the Council Chamber to convene a meeting of the Council, all persons in the Council Chamber must stand.

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

- (a) any Councillor then speaking or seeking to speak must immediately resume his or her seat and be silent to enable the Chairperson to be heard without interruption; and
- (b) every Councillor present must be silent to enable the Chairperson to be heard without interruption.
- (c) any Councillor wishing to move or amend a motion or speak to a motion or address the meeting of the Council in any way shall stand and direct all matters to the Chairperson.
- (d) any contravention of this Sub-Clause shall constitute an Act of Disorder.

21. Chairperson's duty with respect to motions

- (1) It is the duty of the Chairperson at a meeting of 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) Subject to Clause 33 of this Code, any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.
- (4) The Chairperson of a Committee or Council Meeting is required to verbally nominate:
 - (a) the names of the respective Councillors moving and seconding all motions and amendments; and
 - (b) with respect to divisions, the names of the Councillors who voted for the motion and those who voted against.

22. Order of business

- (1) Ordinary Council meetings shall proceed according to the following order of business:
 - (i) Prayer & acknowledgement of local indigenous people
 - (ii) Apologies/Granting of leave of absences
 - (iii) Confirmation of the Minutes

- (iv) Declaration of Pecuniary & Non-Pecuniary Interests
 - (v) Addressing of Council by Members of the Public
 - (vi) Mayoral Minutes
 - (vii) Urgent Business
 - (viii) Reports of Committees of the Council
 - (ix) City Planning Reports
 - (x) General Managers Reports
 - (xi) City Services Reports
 - (xii) Governance and Financial Services Reports
 - (xiii) Petitions
 - (xiv) Motions Pursuant to Notice
 - (xv) Closed Session (Confidential Items)
 - (xvi) Notices of Rescission Motions.
- (2) Business at Council and Council Committee Meetings will be transacted in the order in which it appears on the Agenda of the Business Paper for the meeting.
 - (3) The order of business fixed under Sub-Clause (1) may, however, be altered if a motion to that effect is carried. Such a motion can be moved without notice.
 - (4) As provided by Clause 239(3) of the Local Government (General) Regulation only the Mover of a Motion to alter the Order of Business may speak to the Motion before it is put.

23. Giving notice of business

- (1) Council must not transact business at a meeting of the Council unless:
 - (a) notice of the business has been sent to the Councillors in accordance with Clause 8 of this Code.
 - (b) a Councillor has given notice of the business in accordance with Clauses 11 & 12 of this Code.
- (2) Sub-Clause (1) above 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 for by Clause 236(1) of the Regulation; or
 - (c) is a matter or topic put to the meeting by the Chairperson in accordance with Clause 243 of the Regulation; or
 - (d) is a motion for the adoption of recommendations of a Committee of the Council.
- (3) Despite Sub-Clause (1) above, business may be transacted at a meeting of Council when due notice of the business has not been given to Councillors, only if:
 - (a) a motion (which may be moved without notice) 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.
 - (c) in respect to Rescission Motions, the following procedure may be invoked when appropriate:

the Mayor, the Deputy Mayor or Councillor presiding at the meeting may, on the motion of another Councillor to consider the Rescission Motion(s) as a matter of great urgency, rule that the matter is of great urgency and if the motion is passed, the Rescission Motion(s) will be transacted at that meeting.

- (4) Despite Clause 37 of this Code, only the mover of a motion referred to in Sub-Clause (3) above can speak to the motion before it is put.

24. Council Meeting Prayer & acknowledgement of local indigenous people

That a prayer and acknowledgement of local indigenous people be offered at the commencement of each Ordinary and Extraordinary Meeting of the Council as follows:

*"Almighty God,
We humbly beseech you to bestow your blessing upon this Council and to direct and prosper our deliberations to the advancement of your glory and the true welfare of the people of this City and Australia.
Amen."*

"I would like to acknowledge that we are here today on the land of the Bidjigal people of the Dharwahal Nation. The Bidjigal people are the traditional owners and custodians of this land and form part of the wider Aboriginal nations of the Sydney area. On behalf of Randwick City Council I would also like to acknowledge and pay my respects to the Elders both past and present."

25. Addressing of Council and Committee Meetings by members of the Public

- (a) Any person or their representative, who in the opinion of the Mayor or Chairperson (or Deputy Chairperson in the Chair) of the Committee, could be affected by a decision relating to any item on the agenda of any Council or Council Committee Meeting shall be permitted to address the relevant Meeting for a period not exceeding three (3) minutes unless the Chairperson (or Deputy Chairperson in the Chair) or the Meeting grants one extension of up to, but not more than three (3) minutes, where this is necessary or desirable and subject to the following guidelines:

A maximum of two (2) speakers are allowed for each item on the agenda, with one (1) speaker addressing in favour of the recommendation/motion and one (1) speaker opposing the recommendation/motion. Speakers must nominate whether they are speaking in favour/support of, or against the recommendation/motion.

- (b) Speakers are to make prior arrangements to address Committee, Extraordinary or Ordinary Meetings and are allowed to speak only once, unless permitted otherwise by the Chairperson (or Deputy Chairperson in the Chair) or the Meeting.
- (c) Any person or their representative may address a Committee, Extraordinary or Ordinary Meeting of Council on any matter on the agenda of those meetings, subject to the following guidelines:
- (i) Applications to speak will only be accepted between the time that the agenda for the meeting is made public and the advertised starting time of the meeting.
- (ii) Late applications to speak (that is, after the advertised starting time of the meeting) will only be permitted at the discretion of the Meeting.
- (iii) For those persons speaking on behalf of, or representing, another person, the name of the speaker and the person(s) represented will be recorded in the Minutes.
- (iv) Speakers against recommendations/motions will be heard prior to speakers for recommendations/motions.

- (v) Applications to speak at any Committee, Ordinary or Extraordinary Meeting of Council, on matters which have been the subject of addresses in the previous three months and are substantially the same matter (including rescission motions) will not be permitted except at the discretion of the Chairperson.
 - (vi) Discussion debate or questions involving Councillors or staff is not permitted.
 - (vii) The subject matter only is to be discussed.
 - (viii) Personalities are not to be addressed.
 - (ix) Anyone speaking at a Council or Committee Meeting on behalf of another person, will be asked to indicate the name of the person on whose behalf they are speaking and this information will be included in the Speakers List and in the Council/Committee Meeting Minutes. This is so that Councillors are able to identify and declare interests, as appropriate.
- (d) A Councillor may, through the Chairperson (or Deputy Chairperson in the Chair), put a question to an individual addressing a Council or Committee meeting, subject to the question being put directly, succinctly and without argument.
 - (e) An individual addressing a Council or Committee Meeting may decline to answer a question put by a Councillor.

26. Tabled documents/petitions

- (a) Documents (other than petitions) 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.
- (b) In the event that a Councillor wishes to table a document not covered by (1) above, the document/petition must be given to the General Manager at least two (2) hours prior to the commencement of the meeting.
- (c) Subject to sub-clause (b) above, petitions may be tabled at Council Meetings. There is to be no discussion or debate in relation to any petition tabled by a Councillor at a Council Meeting. A report on the action taken in relation to any petition tabled at a Council Meeting will either be included in the Business Paper of a subsequent Council/Committee Meeting or will be included in the Councillors' Bulletin.
- (d) Any other documents that a Councillor or a member of the public wishes to submit to Council should be forwarded to the General Manger in the normal manner.

27. Report of a Departmental Representative to be Tabled at a Council Meeting

When a report of a Departmental representative 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.

28. Method of adoption of Reports

That, in dealing with and considering the Reports and Recommendations of Committees of the Council which do not have delegated authority, the following procedures shall apply:

- (i) Each Report of a Committee shall be dealt with separately.

- (ii) The Mayor shall nominate the Committee Report under consideration and shall call the number of each item in that Committee's report "seriatim" inviting members to nominate a challenge to any item they require to be excluded from a general resolution of the Council adopting the remainder of that Committee Report and Recommendations, "in total".
- (iii) The Mayor shall then call for the Chairperson of that Committee as mover and for a member as seconder, to a resolution in the following terms:
"That the report and recommendations of the committee from its Meeting held onexcept items....., etc be and are hereby adopted."
- (iv) The excluded items shall then be taken and dealt with separately. The Mayor shall call for the Chairperson of the Committee or another member as mover and for a member as seconder, of a Motion in terms of the Committee's recommendation or some alternative motion.

The Councillor/Councillors having nominated a challenge to the item is/are then called on by the Mayor.

Debate on the Motion then ensues, including meeting procedure, for opposition to or amendments of the Motion, or proposal of a Procedural Motion.

- (v) The Minutes of the Council meeting shall record in full the content of all Motions, Amendments, etc. arising from any challenged item.

29. Disclosure of interests

Pecuniary & Non-pecuniary interests

- (1) A Councillor who has a pecuniary or non-pecuniary interest in any matter with which Council is concerned and who is present at a meeting of Council at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. Disclosures are to be made verbally at Council and Committee Meetings and all disclosures (both pecuniary and non-pecuniary) are to be submitted in writing (using Council's Declaration of Interest Form).
- (2) If any Councillor declares a Pecuniary Interest in any matter, the Councillor must not be present at, or in sight of, the meeting of the Council:
 - (a) at any time during which the matter is being considered or discussed by the Council; or
 - (b) at any time during which the Council is voting on any question in relation to the matter.

Disclosures to be recorded

A disclosure made at a meeting of Council and the reasons for the disclosure must be recorded in the minutes of the meeting.

(Note: Further details in relation to the disclosure and management of Pecuniary & Non-pecuniary interests are contained in Appendix A to this Code.

30. Mayoral Minutes

- (1) If the Mayor is the chairperson at a meeting of a Council (or a Council Committee, where the Committee consists entirely of Councillors), 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.
- (4) In the absence of the Mayor and when acting in the role of the Mayor, the Deputy Mayor is entitled to submit Mayoral Minutes in accordance with this clause.

31. Absence of Mover - Notice of Motion

In the absence of a Councillor who has placed a notice of motion on the agenda for a meeting of 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 Council at which the motion can be considered.

32. Motions to be seconded

A motion or an amendment cannot be debated unless or until it has been seconded and the names of those moving and seconding the motion clearly indicated to the meeting. This Clause is subject to Clauses 30 and 37 of this Code.

33. How subsequent amendments may be moved

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 amendment can be before Council at any one time.

34. Procedural Motions

- (i) Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the Chairperson. A Procedural Motion, having been moved and seconded, shall take precedence over the question before the Chair which shall be suspended pending decision on the Procedural Motion.
- (ii) Unless otherwise provided, debate on a procedural motion is not permitted and the mover does not have a right of reply.
- (iii) Unless otherwise provided, a procedural motion cannot be amended.
- (iv) Where the Procedural Motion is lost, the suspended business shall then proceed.

(Note: A Procedural Motion is not an amendment to the question before the Chair. As its description implies, it is directed towards the way or manner in which the Council will deal with the matter before it, and does not contain or imply a decision on the matter).

35. 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 business before the meeting until a decision is made on the motion of dissent. A point of order must relate to a breach of order or an irregularity in proceedings.
- (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 34 of this Code, 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.

36. 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.

37. Limitation as to number of speeches

- (1) A Councillor who, during a debate at a meeting of 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 Council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time. However, the Chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment and for longer than five (5) minutes on that motion or amendment, to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- (4) Despite Sub-Clauses (1) and (2), a Councillor may move that a motion or 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 two Councillors have spoken against it.
- (5) The Chairperson must immediately put to the vote, without debate, a motion moved under Sub-Clause (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 Sub-Clause (1).
- (7) If a motion that the original motion or amendment be now put is rejected, the Chairperson must allow the debate on the original motion or the amendment to be resumed.

38. What are the voting entitlements of Councillors?

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

39. Voting at Council Meetings

- (1) A Councillor who is present at a meeting of 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 (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 that 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 (but excluding the election of Mayor or Deputy Mayor), 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.

39A. Recording of voting on planning and tender matters

- (i) In this clause, 'planning decisions' 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 the Act, but
 - b. Not including the making of an order under Division 2A of Part 6 of that Act.
- (ii) The General Manager is required to keep a register containing, for each planning and tender 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.
- (iii) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning or tender decision is put at a meeting of the council or a council committee.
- (iv) 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.
- (v) This clause extends to a meeting that is closed to the public.

39B. Reasons for decisions

Councillors are required to give reasons for their decisions when they approve development applications or tenders against the recommendation of staff and the reasons are to be included in the minutes of the Council or Committee Meeting.

40. What constitutes a decision of Council

A decision supported by a majority of the votes at a meeting of Council at which a quorum is present is a decision of Council.

41. Making Resolutions Public after (part) meeting closed

When the Council or a Committee of the Council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must make the

resolution public as soon as practicable after the meeting or part of the meeting has ended.

42. Council Meeting Adjournment

- (1) The Chairperson is empowered to adjourn a meeting of a Council for a time specified or as agreed to by the Council.
- (2) Meetings of the Council, if not concluded beforehand, adjourn at 11.30pm.

43. Rescinding or altering resolutions

- (1) A resolution passed by Council, or a Committee whose membership consist only of members of the Council and which has full delegation of authority to determine matters, 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 a 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. Section 372(1) of the Act requires notice of a rescission motion to be given in accordance with Council's Code of Meeting Practice. As such, for rescission motions that are lodged at the same meeting as the matter proposed to be rescinded was carried, the rescission motion will be held over and considered at the subsequent Ordinary or Extraordinary Council Meeting or the next meeting of the relevant Committee, whichever occurs first.
- (3) If a motion has been negatived by Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with this Code (see Clause 23(1) of 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 Council, must be signed by three (3) Councillors if less than three (3) months have 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 negatived, or if a motion which has the same effect as a previously negatived motion is negatived, no similar motion may be brought forward within three (3) months. This Sub-Clause may not be evaded by substituting a motion differently worded, but in principle the same.
- (6) A motion to which this Clause applies may be moved on the report of a Committee of Council and any such motion must be recorded in the minutes.
- (7) A notice of motion to rescind a resolution, arising from a meeting of a Committee which has full delegation of authority to determine matters, will be listed on the agenda for the subsequent Ordinary or Extraordinary Council Meeting or a Meeting of that Committee, whichever occurs first, for determination. A notice of motion to rescind a resolution, arising from a Council Meeting, will be listed on the agenda of the next available meeting (this could include a Committee Meeting subject to;
 - the matter being a matter which is able to be delegated under Section 377 of the Local Government Act 1993;
 - the matter being submitted to the most appropriate Committee based on the subject matter of the Rescission Motion; and
 - the matter being submitted to a Committee for which all the Councillors are members). (see also Clause 23(3)(c))
- (8) A notice of motion to rescind shall not be valid unless received by the General Manager in writing in accordance with this Clause.
- (9) A Councillor may only withdraw his/her signature from a Notice of Motion to Rescind, with the consent (in writing) of the other signatories (so as to give the other Councillors an opportunity to obtain another signatory to the rescission

motion, if necessary). If, as a result of a signature being validly withdrawn, the Notice of Motion to Rescind is left with less than three (3) valid signatures, the motion lapses and the matter the subject of the motion will be actioned by the General Manager.

- (10) Rescission Motions are unable to be withdrawn, by the Councillors who have submitted the Motion, after the deadline for business paper preparation (which is 12noon on the Monday in the week preceding the meeting in question). Once a Rescission Motion has been listed on a Business Paper (which is taken to be at 12noon on the Monday in the week preceding the meeting in question) it cannot be removed or withdrawn and will lapse at the meeting in question if no Councillors are prepared to move/second it.
- (11) The provisions of this Clause concerning negated motions do not apply to motions of adjournment.
- (12) The General Manager shall notify all Councillors (by telephone, facsimile or email) within 24 hours of the receipt by the General Manager of a valid rescission motion.
- (13) It is Council's practice not to implement decisions of the Council until 12noon on the working day following the Council and/or Committee Meeting.
- (14) If the General Manager receives a rescission motion after 12 noon on the working day following any meeting and action on the resolution in question has not already been carried into effect but is expected before the rescission motion can be decided on by the Council, the General Manager will not act upon the resolution in question until the rescission motion has been considered.

44. Certain circumstances do not invalidate Council's decision

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

- (1) a vacancy in a civic office; or
- (2) a failure to give notice of the meeting to any Councillor or Committee member; or
- (3) any defect in the election or appointment of a Councillor or Committee member; or
- (4) 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 of the Act; or
- (5) a failure to comply with this Code.

45. Apologies/Leave of absences

- (a) For the purpose of Section 234 of the Local Government Act, the acceptance by the Council of an apology tendered by a Councillor for the non attendance of the Councillor at a Council or Committee Meeting is deemed to be leave granted by the Council for the absence of the Councillor from that meeting provided that the apology is tendered prior to the meeting.
- (b) If a Councillor attends a Council Meeting (whether or not an ordinary meeting) despite having been granted leave of absence, the leave of absence is taken to have been rescinded as regards any future Council Meeting.
- (c) Subsection (b) does not prevent the Council from granting further leave of absence in respect of any future Council Meeting.
- (d) A Councillor's application for leave of absence from Council Meetings should, if practicable, identify (by date) the meetings from which the Councillor intends to be absent.
- (e) A councillor who intends to attend a Council Meeting despite having been granted leave of absence should, if practicable, give the General Manager at least 2 days' notice of his or her intention to attend.

46. 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.
- (5) When the Chairperson rules that an act of disorder has been committed by a Councillor, the details, as stated by the Chairperson at the meeting, are to be recorded in the minutes of the meeting.

47. Acts of disorder

- (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 Council, or addresses or attempts to address Council 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 Council or the Committee into contempt.
- (2) The Chairperson may require a Councillor:
 - (a) to apologise without reservation for an act of disorder referred to in Sub-Clause (1)(a) or (b) above; or
 - (b) to withdraw a motion or an amendment referred to in Sub-Clause (1)(c) above and, where appropriate, to apologise without reservation; or
 - (c) to retract and apologise without reservation for an act of disorder referred to in Sub-Clause (1)(d) or (e) above; and
 - (d) to apologise without reservation for an act of disorder (committed at the preceding Council or Committee meetings) for which that Councillor failed to apologise for without reservation when requested by the Chairperson at the time.
- (3) Prior to expulsion:
 - (a) 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 Sub-Clause (2). The expulsion of a Councillor under Sub-Clause (2) does not prevent any other action from being taken against

the Councillor for the act of disorder concerned.

- (b) Prior to any expulsion the Chairperson must adjourn the meeting for a minimum period of five (5) minutes.
 - (c) Upon resumption of the Meeting, and prior to expulsion of a Councillor taking place, the Chairperson shall specify the breach of the Code/reasons for the proposed expulsion and provide an opportunity for the subject Councillor to respond to the alleged breach/reasons for expulsion.
- (4) The Mayor may expel from a meeting a Councillor who fails to comply with a requirement made under Sub-Clause (2) above.

48. How disorder at a meeting may be dealt with

- (1) If disorder occurs at a meeting of Council, the Chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This Sub-Clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors.
- (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.
- (3) The Mayor may expel a member of the public from a Council meeting on the ground that the member is engaging in or has, at the meeting, engaged in disorderly conduct.

49. Power to remove persons from meeting after expulsion resolution

If a meeting of Council resolves to expel or the Mayor expels from the meeting a Councillor for failing to comply with a requirement made under Clause 43 of this Code, or a member of the public for disorderly conduct, and the Councillor or member of the public fails to leave the meeting immediately after the resolution is passed, a Police Officer, or any person authorised by Council for the purpose, may, by using only such force as is necessary, remove the Councillor or the person from the meeting and, if necessary, restrain the Councillor or the person from re-entering the place where the meeting is being held until that person publicly apologises without reservation.

Part 7 - Council Committees

50. Committee of the Whole

- (1) Council may resolve itself into Committee of the Whole to consider any matter before Council.
- (2) All the provisions of this Code relating to meetings of Council, so far as they are applicable, extend to and govern the proceedings of Council when in Committee of the Whole, except the provision limiting the number and duration of speeches.
- (3) 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 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.
- (4) Council must ensure that a report of the proceedings (including any recommendations of the Committee) is recorded in the Council's minutes. However, Council is not taken to have adopted the report until a motion for adoption has been made and passed.
- (5) The Administration & Finance Committee, the Civic Affairs Committee, the Community Services Committee, the Economic Development Committee, the

Environment Committee, the Planning Committee and the Works Committee are all committees whose membership consists only of members of the Council and which have full delegated authority to determine matters and are not subject to Sub-Clause 3 of Clause 48 or Sub-Clause 3(b) of Clause 62 of this code.

51. Council may appoint and wind up Committees

- (1) Council may, by resolution, establish such Committees as it considers necessary and may wind up such Committees.
- (2) A Committee is to consist of the Mayor and such other Councillors as are elected by the Councillors or appointed by the Council.

52. General and Special Committees of Council

- (1) Committee Meetings - General and Special Committees.

Meetings of the undermentioned General and Special Committees are to be held in the Town Hall, Avoca Street, Randwick, in accordance with the following Schedule:

(a) *General Committees:*

Administration and Finance Committee
Community Services Committee
Economic Development
Environment Committee
Planning Committee
Works Committee

(whose membership consists only of members of the Council and which has full delegation)

Meetings held on the 2nd Tuesday of the month at 6.00pm (as detailed by notice in accordance with Section 7(i) of the Code of Meeting Practice).

(b) *Special Committees:*

Civic Affairs
Australia Day
Randwick City Business Awards
Randwick Access
Randwick Older Persons' Advisory
Randwick Youth Advisory
Randwick Aboriginal Consultative
Randwick Multicultural Advisory
Greening Randwick Sub-Committee
General Manager's Performance Review
Budget & management Plan Sub-Committee
Community Safety
Road Safety Steering
Backpacker Taskforce
Sports

Meetings are held at times to be determined by the Mayor, (as detailed by notice in accordance with Section 7(i) of the Code of Meeting Practice).

53. What is the quorum of a Committee?

The quorum of each committee is as stipulated by the Council at the annual appointment of the Committee membership or if the Council has not decided a number - a majority of the members of the Committee.

54. Functions of Committees

- (1) Council must specify the functions of each of its Committees when the Committee is appointed or elected, but may from time to time amend those functions.
- (2) A Committee cannot act outside the extent of the functions granted by Council.

- (3) If Council, by resolution, delegates authority to a Committee to make decisions, then any decisions made by the Committee under such authority shall be decisions of Council. (Section 49(6), Interpretation Act 1987)

55. Notice of Committee meetings to be given

- (1) The General Manager must send to each member of a Committee at least three (3) days before each meeting of the Committee, a notice specifying:
 - (a) the time and place at which and the date on which the meeting is to be held; and
 - (b) the business proposed to be transacted at the meeting.
- (2) However, notice of less than three (3) days may be given of a Committee meeting called in an emergency.

56. Non-members entitled to attend Committee meetings

- (1) A Councillor who is not a member of a Committee 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 for the meeting; or
 - (b) to move or second a motion at the meeting; or
 - (c) to vote at the meeting.

57. Chairperson and Deputy Chairperson of Committees

- (1) The Chairperson of each Committee must be:
 - (a) the Mayor; or
 - (b) if the Mayor does not wish to be the Chairperson of that Committee - a member of the Committee elected by Council; or
 - (c) if 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 as Deputy Chairperson of the Committee. If 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 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. 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.

58. 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 (being the period beginning 1 July and ending the following 30 June) without having given to the Committee acceptable reasons for the member's absences.
- (2) Sub-Clause (1) does not apply if all the members of Council are members of the Committee.

59. Committee Procedures

Subject to Clause 57(1) of this Code of Meeting Practice each Committee of a Council may regulate its own procedure. All the provisions of this Code relating to meetings of the Council, so far as they are applicable, extend to and govern the proceedings of Committee Meetings.

For Committees which do not have delegated authority and which only make recommendations to Council, their minutes shall contain the names of movers and seconders and the text of motions and amendments and whether those motions or amendments were passed or lost.

60. Order of business

- (1) Council Committee meetings shall proceed according to the following order of business:
 - (i) Apologies/Granting of leave of absences
 - (ii) Confirmation of the Minutes
 - (iii) Declaration of Pecuniary & Non-Pecuniary Interests
 - (iv) Addressing of Council by Members of the Public
 - (v) Urgent Business
 - (vi) City Planning Reports
 - (vii) General Managers Reports
 - (viii) City Services Reports
 - (ix) Governance and Financial Services Reports
 - (x) Closed Session
 - (xi) Notices of Rescission Motions.

61. Voting at Committee Meetings

- (1) Voting at a Committee meeting is to be by open means (such as on the voices or by show of hands).
- (2) Whenever the voting of a motion put to a meeting of a Committee is equal, the Chairperson of the Committee is to have a casting vote as well as an original vote.

62. Reports of Committees

- (1) If in a report of a Committee distinct recommendations are made, the decision of Council may be made separately on each recommendation.
- (2) The recommendations of a Committee are, so far as adopted by Council, resolutions of 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 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.

63. Committee may expel certain persons from its Meetings

- (1) A Committee may, by resolution, expel from a meeting a Councillor or member of the public who fails to comply with a requirement under Clause 43(2) of this Code.
- (2) The Mayor may expel from a meeting a Councillor or member of the public who fails to comply with a requirement under Clause 43(2) of this Code.
- (3) If a meeting or part of a meeting of a Committee is closed to the public in accordance with section 10(A) of the Act, the Committee may, by resolution expel, from the place where the meeting is being held any person who is not a Councillor or member of the Committee in accordance with Section 10(2)(a) or (b) of the Act.
- (4) 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, Committee or person presiding may, by using only such force as is necessary, remove the person from that place, and, if necessary, restrain the person from re-entering, that place.

64. Committee Meeting Adjournment

The Chairperson is empowered to adjourn a meeting of a Committee for a time specified or as agreed to by the Committee.

Part 8 - Minutes

65. Minutes

- (1) Council and each Committee must ensure that full and accurate minutes are kept of the proceedings of each meeting of Council and of each Committee including:
 - (a) The name of the Councillors present at the meetings and any apologies/leave of absences
 - (b) The names of officers in attendance and their organisational titles
 - (c) The name of any other person, excluding members of the public, in attendance at the meeting and the organisation they represent or the capacity of their attendances
 - (d) The arrival and departure of Councillors during the course of the meeting (including any temporary departures or arrivals)
 - (e) Details of each motion moved and of any amendments moved to it
 - (f) The names of the mover and seconder of any motion or amendment
 - (g) Whether the motion or amendment is carried or lost
 - (h) a record of the voting (for and against) each planning and tender matter
 - (i) a record of the reasons for approving development applications or tenders against the recommendations of staff
 - (j) Details of any procedural motions moved
 - (k) Motions passed unanimously, if requested, should be noted
 - (l) Where a valid Division is called, a table of the names of every Councillor and the way their vote was cast, either For or Against
 - (m) When requested by Councillors, a record of their opposition to any motion
 - (n) Details of failure to achieve or maintain a quorum and any adjournment whether as a result or otherwise
 - (o) Details of any members of the public who address meetings
 - (p) The time and reason for any adjournment of the meeting or suspension of standing orders
 - (q) The details of any disclosures of pecuniary interests by the Councillors
 - (r) The details of any acts of disorder as ruled and the reasons as stated by the Chairperson at any meeting
 - (s) Any other matter which the General Manager thinks should be recorded to clarify the intention of the meeting or the reading of the Minutes
 - (t) The date, time and venue where the meeting was commenced, adjourned, resumed and/or concluded.

- (2) The correctness of the Minutes of a meeting shall only be confirmed on the motion of two (2) Councillors.
- (3) A motion or discussion with respect to such Minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.
- (4) The Minutes must, as soon as they have been confirmed at a subsequent meeting of Council or a Committee, be signed by the Chairperson of that subsequent meeting.

66. Inspection of the minutes of Council or a Committee

- (1) An inspection of the minutes of Council or Committee is to be carried out under the supervision of the General Manager or an employee of Council designated by the General Manager to supervise inspections of those minutes.
- (2) The General Manger must ensure that the minutes of Council and any minutes of a Committee are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

Part 9 - Miscellaneous

67. Information relating to proceedings at closed meetings not to be disclosed

(1) Disclosure of information

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

- (a) with the consent of the person from whom the information was obtained; or
- (b) in connection with the administration or execution of this Act; or
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) in accordance with a requirement imposed under the Ombudsman Act 1974 or the Freedom of Information Act 1989; or
- (e) with other lawful excuse.

(1A) Meeting closed to the public

In particular, if part of a meeting of a Council or a Committee of a Council is closed to the public in accordance with section 10(A)(1), a person must not, without the authority of the Council or the Committee, disclose (otherwise than to the Council or a Councillor of the Council) information with respect to the discussion at, or the business of, the meeting.

(1B) Exemptions to Subs (1A)

Subsection (1A) does not apply to:

- (a) the report of a Committee of a Council after it has been presented to the Council; or
- (b) disclosure made in any of the circumstances referred to in subsection (1)(a)-(e); or
- (c) disclosure made in circumstances prescribed by the Regulations.
- (d) any agenda , resolution or recommendation of a meeting that a person is entitled to inspect in accordance with Section 12 of the Local Government

Act.

68. Public access to correspondence and reports

- (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) of the Act, are to be treated as confidential.

69. Audio Recording of Council and Committee Meetings by Council

Meetings of Council and Committees, which have full delegation to determine items on their agenda, shall be audio recorded by the Council, except for those portions which the Committee or the Council has resolved to close in accordance with Section 10A(2) of the Local Government Act.

The purpose of audio recording meetings of Council and Committees is to:

- (1) Allow accurate compilation of Minutes of those Meetings and to verify their accuracy upon confirmation of those Minutes;
- (2) Audio recordings of meetings will be destroyed immediately after the Minutes for the meeting in question have been confirmed, however, recordings may be retained for a longer period (after confirmation of the Minutes) at the General Manager's discretion and for any reason that the General Manager sees fit;
- (3) Appropriate signs shall be displayed in the Council Chamber (or any rooms utilised for audio recording of Council/Committee Meetings) alerting attendees to the fact that the proceedings are being recorded for the purposes of Clause 69 of Council's Code of Meeting Practice; and
- (4) The Presiding Officer (Chairperson) will, at the commencement of meetings, inform those in attendance that the proceedings are being recorded for the purpose of Clause 69 of the Code of Meeting Practice and remind them that any comments should only include personal information that is relevant or necessary to the matters under consideration by the Council/Committee. Further, access to the audio recordings may be granted to Councillors, staff and members of the public, subject to the provisions of the Government Information (Public Access) Act.

70. Audio recording/video recording of meetings of Council or a Committee prohibited without permission

- (1) A person may use an audio recorder to record the proceedings of a meeting of Council or a Committee only with the authority of Council or Committee.
- (2) A person may, as provided by Section 10(2)(a) or (b) of the Act, be expelled from a meeting of a Council or a Committee of a Council, for using or having used a audio recorder in contravention of this Clause.
- (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 is necessary, remove the person from that place and, if necessary, restrain the person from re-entering, that place.

- (4) In this Clause, audio recorder includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

71. Use of mobile phones prohibited during Council and Committee Meetings

Councillors and members of the public are prohibited from using mobile phones in the Council Chamber during meetings of the Council or Council Committees. Mobile phones should be turned-off or changed to 'silent mode' prior to entering the Council Chamber.

72. Public approaching Councillors during Meetings

Members of the public are prohibited from approaching Councillors in the Council Chambers when a meeting is in progress.

73. Mode of Address

Councillor and Council employees shall at all times:

- (a) Address Councillors by their official designation, as Mr/Madam Mayor or Councillor, as the case may be;
- (b) Address Council employees by their position title;

and must address their remarks through the chair.

Appendix A

Conflicts of Interests (Pecuniary & Non-pecuniary)

What is a conflict of interest & what is required of you in assessing possible interests?

A conflict of interest can be of two (2) types – pecuniary and non-pecuniary.

A conflict of interest exists when you could be influenced, or a reasonable person would perceive that you could be influenced, by a personal interest when carrying out your public duty.

You must appropriately resolve any conflict or incompatibility between your private or personal interests and the impartial performance of your public or professional duties.

Any conflict between your interests and those of Council must be resolved to the satisfaction of the Council. When considering whether or not you have a conflict of interest, it is always important to think about how others would view your situation.

It is essential that you properly address conflict of interest issues that may arise. You must:

- Try to understand the concept and practical implications of conflict of interest issues;
- Accept that failure to resolve an actual or reasonably perceived conflict of interest is unacceptable in local government;
- Take timely and appropriate action to avoid, or if not, to disclose any actual, potential or reasonably perceived conflict of interest.

Perceptions of conflict of interest are as important as actual conflict of interest. The onus is on you to identify a conflict of interest, whether perceived or real, and take the appropriate action to resolve the conflict in favour of your public duty.

Where necessary, you must disclose an interest promptly, fully and in writing. If a disclosure is made at a Council or Committee Meeting, both the disclosure and nature of an interest must be recorded in the minutes.

Pecuniary

What is a “pecuniary interest”?

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided in Section 443 of the *Local Government Act*.

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 of the *Local Government Act*.

Non-pecuniary

A non-pecuniary interest is a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the *Local Government Act* (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

A Councillor should note that matters before Council involving campaign donors may give rise to a non-pecuniary conflict of interest.

Remoteness

A person does not have an 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 that person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the *Local Government Act*.

Who has a pecuniary interest?

(1) A person has a pecuniary interest in a matter if the pecuniary interest is the interest of:

- a. The person; or

b. Another person with whom the person is associated as provided below.

- (2) A person is taken to have a pecuniary interest in a matter if:
- a. The person's spouse or de facto partner or a relative of the person has a pecuniary interest in the matter; or
 - b. the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

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

- (i) The parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the persons' spouse;
- (ii) The spouse, de facto partners of the person or of a person referred to in (i) above).

- (3) However, a person is not taken to have a pecuniary interest in a matter as referred to in (2) above:

- a. if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body;
- 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, 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.

What disclosures must be made by a Councillor?

A Councillor:

- must prepare and submit written returns of interests in accordance with Section 449 of the Local Government Act; and
- must disclose pecuniary interests in accordance with Section 451 (see below).

Disclosure and participation in meetings (Section 451)

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 nature of the interest to the meeting as soon as practicable.

The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:

- at any time during which the matter is being considered or discussed by the Council or Committee, or
- at any time during which the Council or Committee is voting on any question in relation to the matter.

No knowledge – A person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

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

The following interests do not have to be disclosed for the purposes of the *Local Government Act*:

- an interest as an elector;
- an interest as a ratepayer or person liable to pay a charge;
- an interest in any matter relating to the terms of which the provision of a service or the supply of goods or commodities is offered to the public or a section of the public that includes persons who are not subject to this Part;

- 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;
- 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) [*for further information in relation to club membership and options for managing conflicts, see the case studies under the heading "Disclosure and management of non-pecuniary interest"*];
- 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;
- 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:
 - (a) land in which the person or another person with whom the person is associated as provided in Section 443 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
 - (b) land adjoining, or adjacent to, or in proximity to land referred to in paragraph (a) if the person or the other person with whom the person is associated would by reason of the proprietary interest have a pecuniary interest in the proposal;
- 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;
- 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;
- 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:
 - (a) the performance by the Council at the expense of the relative of any work or service in connection with roads or sanitation;
 - (b) security for damage to footpaths or roads;
 - (c) any other service to be rendered, or act to be done, by the Council or under any Act conferring functions on the Council or by or under any contract;
- an interest relating to the payment of fees to Councillors (including the Mayor and Deputy Mayor);
- 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;

- 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;
- 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;
- 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;
- 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.

Disclosure and management of non-pecuniary interest

Non-pecuniary interests **must** be disclosed in meetings.

There are a broad range of options available for managing conflicts and the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with.

Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- it may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquish or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in Section 451 of the *Local Government Act* apply (particularly if you have a significant non-pecuniary interest).

Case Study...

A Councillor is a member of a large metropolitan club. However, he/she is not active in the club or involved with the management of the club. In this situation, the Councillor merely enjoys the facilities of the club as a privilege of membership.

Should a matter relating to the club arise at Council, it is appropriate that the Councillor informs the Council of his/her membership. However, it is unlikely that his/her interest as a club member would overshadow his/her role as a Councillor representing the view of residents and ratepayers generally. Therefore, he/she could participate in the decision making process.

Case Study....

A Councillor is a member of a club in a small community. The Councillor is very active in the running of the club and while not an office holder, he/she is well known to all club members. The Councillor often discusses Council business with other members, represents their personal interests as residents and ratepayers to the Council and facilitates communication between them and Council.

The club has recently submitted a development application to the Council for a major extension of its facilities.

In this situation, the Councillor has two distinctly different interests in the matter. The first is his interest as a Councillor representing residents and ratepayers generally; the second is as a club member who is keen to see the club prosper and provide better facilities for its members.

There may be a public perception that the Councillor's activities with the club would make it difficult for the Councillor to view the matter as representative of residents and ratepayers generally. Therefore, the Councillor should disclose his/her conflict of interest in the matter when it comes up for consideration. The Councillor should then consider whether he/she will refrain from participating in Council's discussion and voting on the matter. If the Councillor decides not to vote then he/she should leave the room during the discussion and vote on the matter.

Case study.....

A Councillor is the patron of a club in the local area by virtue of the fact that Councillor is a well-known and respected person in the community. The Councillor does not participate in club activities on a regular basis, but is involved in promoting the club, raising awareness of the clubs events and championing the clubs cause.

The club has recently submitted an application to the Council for the renewal of its lease of a Council facility at a discounted rate.

In this situation, the Councillor has an interest as a patron of the club and as one who is keen to see the club prosper and provide better facilities for its members.

There may be a public perception that the Councillor's activities with the club would make it difficult for the Councillor to view the matter as representative of residents and ratepayers generally. Therefore, the Councillor should disclose his/her conflict of interest in the matter when it comes up for consideration. The Councillor should then consider whether he/she will refrain from participating in Council's discussion and voting on the matter based on the level of involvement he/she has with the club. If the Councillor decides not to vote then he/she should leave the room during the discussion and vote on the matter.

If the mayor or a councillor is the patron of a local club/organisation they should declare a non pecuniary interest in any relevant matter as there is likely to be a community perception that a personal interest exists. Even though the Mayor often automatically becomes the patron of a club/organisation (because of his position), possibly even without his/her knowledge, he/she should declare a non pecuniary interest in the matter when/if a related matter comes before the

Council and/or a Council Committee. It will be up to each individual Councillor to determine whether he or she should vote on any matter they have declared a non pecuniary interest in.

Disclosure to be recorded (Section 453)

A disclosure (and the reason(s) for the disclosure) made at a meeting of the Council or Council Committee or sub-Committee must be recorded in the minutes of the meeting.

Some examples of conflict of interests

The following information is taken from the ICAC "*Under Careful Consideration: Key Issues for Local Government*" publication¹ and provides some examples of where conflict of interests may occur within Councils.

"Tendering and purchasing

A Council has advertised for a firm to supply and fit office equipment. A Councillor who is representative on the Council's panel assessing the tender bids, has a close friend who is a senior executive in a firm submitting a bid. This may affect, or may be suspected to affect, the Council's ability to make an unbiased decision."

"Elected officials – business interests

Many Councillors have business and professional interests in the local government area that they represent. Conflicts can arise if their public positions allow them access to information and opportunities that could be used to advance their personal and business interests.

For example, a Councillor may be tempted to influence an application to set up a new business in the town (area) if his (her) own business could lose custom as a result."

"Election support

A conflict can arise for a Councillor when a campaign donor who contributed financially to the Councillor's election campaign, or a campaign supporter who worked on the election of the Councillors by handing out how-to-vote cards or erecting election posters, has a matter before the Council for determination. This could have potential to place the Councillor in a position of having a conflict of interest.

Extreme care should be taken if the nature of the relationship may constitute a pecuniary interest (for example, where it could be perceived that an election donation has been given on the understanding that the Councillor will provide support on a particular matter should he or she be elected)."

Conflict of interest checklist

The following checklist should be considered by any person who considers that they may have an interest in a matter with which Council is concerned. This checklist should be used as a **guide only**.

If after considering the checklist you are still unsure of your obligation, please immediately contact the General Manager who may, if appropriate, seek advice to clarify whether an interest exists.

Note that this checklist does not affect your obligation to disclose all interests in accordance with sections 444 and 445 of the *Local Government Act*.

1. Do I, a relative, friend or associate stand to gain or lose financially from Council's decision or action on this matter?

Yes: a pecuniary interest exists – you must declare the interest and leave the meeting when the matter is being discussed and voted on.

¹ ICAC. *Under Careful Consideration: Key Issues for Local Government*. Guidelines to Reduce Conflicts of Interest in Councils. March 1997

No: no statutory *pecuniary* interest exists, continue consideration of non-pecuniary (conflict of) interest.

2. Non-pecuniary (conflict of) interest considerations:

- Do I, a relative, friend or associate stand to gain or lose my/our reputation because of Council's decision or action?
- Have I made any promises or commitments in relation to the matter?
- Have I received a benefit or hospitality from someone who stands to gain or lose from Council's decision or action?
- Am I a member of an association, club or professional organisation, or do I have particular ties and affiliations with organisations or individuals, who stand to gain or lose from Council's consideration of the matter?
- Is the person an election campaign donor or someone who helped during my election campaign?
- If I do participate in assessment or decision making, would I be unhappy if my colleagues and the public became aware of my association or connection?
- Would a fair and reasonable person perceive that I was influenced by a personal interest in performing my public duty?

Yes: If the answer to *any* of the above questions is yes, then the Councillor should declare a non-pecuniary interest in the matter in question and consider how to manage the interest based on the considerations listed under the heading "Disclosure and management of non-pecuniary interest"

3. Is the matter so remote or insignificant that it could not reasonably or objectively be regarded as likely to influence any decision which you might make in relation to the matter?

Yes: no conflict of interest exists

4. Will the Relevant Matter affect you or an associate more than any other member of the community?

Yes: disclose the interest and decide how to manage the interest based on the considerations listed under the heading "Disclosure and management of non-pecuniary interest".

5. Am I confident of my ability to act impartially and in the public interest?

No: disclose the interest – you need to exclude yourself from consideration and voting on the Relevant Matter.