

SUPPLEMENTARY SUBMISSION TO THE WINGECARRIBEE SHIRE COUNCIL PUBLIC INQUIRY

Introduction

1. The powers and responsibilities of councils derive mainly from the Local Government Act (LG Act). It is the governing Act. It broadly defines how councils should operate and what they can and cannot do.
2. The key functions of councils deal with local community needs, such as building regulations and development, public health, local roads and footpaths, parks and playing fields, libraries, local environmental issues, waste disposal, and many other community services.
3. A number of other acts such as the *Environmental Planning and Assessment Act 1979*, the *Roads Act 1993*, *Companion Animals Act 1998* and the *Rural Fires Act 1997* also confer responsibilities and obligations on councils.
4. It has been estimated that councils have over 120 regulatory functions, involving over 300 separate regulatory roles, emanating from over 60 State Acts, which are administered by around 30 State agencies. Under the strategic direction of councillors, councils therefore undertake important strategic planning activities for their communities.

Strategic Planning, Guiding Principles and IP&R

5. The LG Act was amended in 2016 to introduce new guiding principles for local government that should inform all council activities. As the then Minister for Local Government noted when introducing the Bill, the guiding principles:
'build a common understanding of what local government should and can achieve. These new principles bring up to date some of the ideas covered by the Councils Charter and introduce new concepts that better reflect the role of local government in the twenty-first century.'
6. The guiding principles are not binding (s.674A), but they set down in writing what is expected from local government. They are designed to provide clear guidance on how councils are to exercise their functions in a way that facilitates local communities that are strong, healthy and prosperous.

7. The LG Act contains a set of integrated planning and reporting principles for councils (s.8C). They provide policy guidance on how councils are to develop and implement their IP&R frameworks.
8. Under the Local Government Regulation, a council must comply with the integrated planning and reporting guidelines in the document entitled *Integrated Planning and Reporting Guidelines for Local Government in NSW*, published on the website of the Department, as in force from time to time (cl 196A). Guidance to Councils on the application of the framework is accessible at: <https://www.olg.nsw.gov.au/councils/integrated-planning-and-reporting/>.
9. Essentially, Councils are required under the Integrated Planning and Reporting (IP&R) framework to prepare
 - a Community Strategic Plan (CSP), which is a minimum ten-year plan identifying the community's aspirations and priorities for the future and strategies for achieving these goals.
 - a Delivery Program – a four-year program identifying the main activities the Council will undertake to implement the strategies set in the CSP; and
 - an annual Operational Plan identifying the Council's proposed activities, revenue policy, and fees and charges for the next year.
 - a Long-Term Financial Plan (LTFP), which is a 10-year rolling plan that informs decision-making and demonstrates to councillors and the community how the objectives of the CSP and commitments of the DP and OP will be resourced and funded.
10. The CSP is prepared by the Council on behalf of the community, and it identifies other partners for achieving the community's objectives. It is highest-level plan that a council will prepare. The CSP addresses social, environmental, economic and civic leadership issues for the community (referred to as the Quadruple Bottom Line).
11. The purpose of the CSP is to identify the community's main priorities and aspirations for the future and to plan strategies for achieving these goals. It guides all remaining strategies and plans and must be developed by councils with and on behalf of the community. The CSP establishes a baseline, the strategies and indicators against which the state of our city report is prepared.
12. The Delivery Program (DP) is said to be the council's contract with its community about what it will deliver during its term of office, within the resources available and agreed in the Resourcing Strategy.
13. The DP is a fixed-term, 4-year plan that aligns with the council electoral cycle. There must be a clear link between the CSP, the DP and the Operational Plan (OP). Activities in the DP must clearly link to the strategies identified in the CSP and appear as more detailed actions in the OP.

14. The DP outlines how council will engage with the community and other stakeholders to determine service level expectations and identify appropriate measures. It must identify major projects and address ongoing improvements to the efficiency, productivity, financial management and governance of the council.
15. The DP must inform, and be informed by, the Resourcing Strategy. Financial estimates of income and expenditure are included in the DP in line with its activities. Resourcing plans must integrate with the Delivery Program (DP) and Operational Plan (OP).
16. As all of the component documents within the IP&R framework are linked to one another, activities and actions in the DP and OPs must be reflected in the Resourcing Strategy and all resourcing implications clearly identified and addressed.
17. Council must prepare and adopt its DP by 30 June in the year following a local government election and after it has been on public exhibition for 28 days. This 9-month transition period allows the new council time to conduct community engagement and preparation for its DP.
18. The Operational Plan (OP) is council's action plan for achieving the community priorities outlined in the Community Strategic Plan (CSP) and Delivery Program (DP). An OP is prepared each year and adopted. Each OP identifies the projects, programs and activities that council will conduct to achieve the commitments of the DP.
19. The OP also includes a detailed annual budget and a Statement of Revenue Policy which includes:
 - Estimated income and expenditure for that financial year
 - The ordinary and special rates
 - Proposed fees and charges
 - Council's proposed pricing methodology
 - Proposed borrowings
20. The OP allocates responsibility for each action. Many councils then build their team plans, individual workplans and performance monitoring cycle from the OP.
21. The LTFP captures financial implications of asset management and workforce planning. It is a guide for future action, to be reviewed and updated annually.
22. The LTFP process is built on planning assumptions (tested through a risk assessment process), revenue and expenditure forecasts (prepared against a range of scenarios, for example a forecast which takes into account a special rate variation), and a sensitivity analysis tool to aid decision making, priority setting and problem solving.

23. There are a range of other plans and strategies discussed in the Guidelines and Handbook. Some of these plans are mandatory such as the Disability Inclusion Action Plan, Local Strategic Planning Statement and Community Participation Plan and the Asset Management Strategy. Others can be developed by council such as practice plans, an Information Communication Technology (ICT) Plan or Strategy, an Economic Development Strategy and Recreation Strategy. These “extra” plans must clearly link to the Community Strategi Plan and feed into the Delivery Program and the Resourcing Strategy, so their resourcing needs are factored in along side the other activities.
24. Councils also have a role in the development of Local Environmental Plans and Development Control Plans, and they can assess Development Applications under the *Environmental Planning and Assessment Act 1979*.

Governance Structure – Governing Body

25. The Local Government Act prescribes a collective role for the governing body of councils (s.223), an individual role for councillors as members of the governing body (s.232). It also prescribes a specific role for the mayor (s.226).
26. The LG Act differentiates the role of the Mayor from other councillors and prescribes an additional leadership role for Mayors. Popularly elected Mayors hold office for the full term of councils. The term of office for Mayors elected by councillors is 2 years.
27. The prescribed role of the Mayor is to:
- be the leader of the council and a leader in the local community
 - advance community cohesion and promote civic awareness
 - be the principal member and spokesperson of the governing body, including representing the views of the council about its priorities for the community
 - exercise urgent policy making functions on behalf of the council where decisions need to be made in-between council meetings
 - chair council meetings and ensure that they are conducted in accordance with the LG Act, the Regulation and the Council’s Code of Meeting Practice
 - ensure the timely development and adoption of the council’s strategic plans, programs and policies and promote their effective and consistent implementation
 - promote partnerships between the council and key stakeholders
 - in conjunction with the general manager, ensure adequate opportunities and mechanisms for engagement between the council and the local community
 - perform civic and ceremonial functions
 - represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level
28. Collectively, the role of the members of the governing body is to make decisions that shape local community. As the community’s elected representatives, the

mayor and councillors are expected to work together collectively and collegiately as members of the governing body to make decisions for the whole community to achieve better social, environmental and economic outcomes.

29. In addition to the role of a councillor, as leader of the governing body, the Mayor has extra responsibilities. The Mayor exercises the principal oversight of the general manager on behalf of the council. The Mayor also provides direction to the general manager on behalf of the council and leads the council's oversight of their performance. In particular, this includes:
- advising, consulting with and providing strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council
 - in consultation with the councillors, leading performance appraisals of the general manager, and
 - exercising day-to-day oversight of general manager's role such as approving annual leave
30. The role of a councillor is also frequently misunderstood – by the public and sometimes by councillors themselves. It is a complex role with many different aspects. OLG has issued guidance to councillors. A link to the current version of the Councillor Handbook is accessible at: <https://www.olg.nsw.gov.au/wp-content/uploads/2021/12/Councillor-Handbook-2021.pdf>
31. The LG Regulation makes provision in Part 8A for requiring councils to provide induction training and ongoing professional development for mayors and councillors.
32. OLG has issued guidelines to assist councils to develop and deliver induction training and ongoing professional development activities for their mayor and councillors in compliance with the regulations. These guidelines are accessible at: <https://www.olg.nsw.gov.au/wp-content/uploads/Councillor-Induction-and-Professional-Development-Guidelines-2018.pdf>
33. Councillors may have been elected on a specific local issue platform, but their role carries a level of responsibility consistent with leading a large organisation. For this reason, councillors are required to swear an oath or affirmation of office upon taking that office (s.233A).
34. Put simply, councillors are responsible for setting the vision and direction for their community and not getting involved in the day-to-day operations, for example, organising the filling of potholes or telling someone to collect a rubbish bin. Their role is to work together with other councillors to do these things. Individual councillors don't set policy or make decisions on their own, they do this as a group.
35. In general terms, the prescribed role of governing bodies of councils reflect an expectation that the governing body will:
- direct and control the affairs of the council in consultation with the general manager

- provide effective civic leadership to the local community
- ensure as far as possible the financial sustainability of the council
- ensure as far as possible that the council acts in accordance with the principles set out in the Act and the plans, programs, strategies and policies of the council
- develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council
- determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) of the council and for the benefit of the community
- keep under review the performance of the council, including service delivery
- make decisions necessary for the proper exercise of the council's regulatory functions
- determine the process for appointment of the general manager by the council and to monitor the general manager's performance
- determine the senior staff positions within the organisation structure of the council, (the general manager determines the other positions in the organisation structure in consultation with the council)
- consult regularly with community organisations and other key stakeholders and keep them informed of the council's decisions and activities, and
- be responsible for ensuring that the council acts honestly, efficiently and appropriately

36. To effectively deliver to its community councillors need to forge a good working relationship with the other members of the governing body. Based on work undertaken by the Centre for Local Government at the University of Technology in Sydney, some of the components of a good working relationship are:

- mutual trust and respect
- councillors publicly supporting the work of the general manager
- councillors dealing with any performance concerns through appropriate channels, that is, not the media or council meetings
- councillors not getting involved in the day-to-day operational matters of the council (which makes it difficult for the general manager to do his or her job)
- councillors having a clear understanding of how and when to approach the general manager or other staff for information or support and following agreed protocols
- regular meetings between the general manager, mayor and councillors to ask questions and share information and advice
- respect of confidentiality, and
- any conflict is dealt with professionally and quickly. Where it can't be addressed informally, proper processes are followed

37. The Local Government Act also prescribes the functions of general managers (s.335). Under the Act, general manager has the following functions
- to conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council
 - to implement, without undue delay, lawful decisions of the council
 - to advise the mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the council,
 - to advise the mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the council and other matters related to the council
 - to prepare, in consultation with the mayor and the governing body, the council's community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report
 - to ensure that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their functions
 - to exercise any of the functions of the council that are delegated by the council to the general manager
 - to appoint staff in accordance with the organisation structure and the resources approved by the council
 - to direct and dismiss staff, and
 - to implement the council's workforce management strategy
38. General managers employ council staff to carry out the day-to-day operations of the council and implement council policies and other decisions, as directed by the general manager. Council staff are responsible to the general manager, who is responsible for the conduct and performance of council staff. The general manager is the primary link between the elected body and its employees.
39. As the Councillor Handbook notes (at [2.2.3]), generally, councillor requests for assistance or information should go through the general manager, except where they have authorised another council officer to undertake this role.
40. If a staff member needs to talk with a councillor or the mayor, approval should be obtained from the general manager or the appropriate authorised officer. Where authority is given to another council officer, it is the general manager's responsibility to monitor, as far as practicable, that the policy is being observed.
41. Councillors must not contact a member of council staff on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager.

42. As the leader of the administrative body, it is important that the general manager performs at a high level. It is also important that the relationship between a general manager and the mayor and other councillors is strong, to ensure a healthy and effective organisation. In the experience of OLG, failing councils are often ones where this relationship has broken down.
43. The general manager is appointed by councils under a mandatory standard contract. The Office of Local Government has issued *Guidelines for the Appointment and Oversight of General Managers* which give more detail about this process. This guidance can be accessed at: <https://www.olg.nsw.gov.au/councils/governance/standard-contracts-of-employment/standard-contracts-of-employment-for-general-managers-and-senior-staff/>
44. The general manager's performance is to be regularly reviewed against pre-determined criteria. These often reflect the goals and priorities chosen by councillors for the community. Councils may choose to undertake more frequent interim reviews.
45. The mayor leads the GM performance appraisal process in consultation with councillors. Many councils engage an external facilitator to assist councillors with the review process. Councils should provide councillors with training on how to conduct the review process.

Governance Structure - Interactions

46. There are many points of interaction between councillors and staff of a council. The mayor and councillors are entitled to any information necessary to perform their functions effectively as members of the governing body and as elected representatives.
47. Councillors have the same rights of access to information generally available just as any other member of the public. Where information is necessary for the performance of their role, councillors may request access to it. Normally, requests for information are made by way of the councillor action/information request system that a council has adopted or in accordance with the council's councillor/staff interaction policy, if adopted.
48. Ultimately, the general manager will decide whether a councillor should be provided with information. If information is provided to one councillor, then it must also be provided to all other councillors who request it. However, a councillor is not entitled to access information relating to matters where the councillor has a conflict of interest.
49. Clause 3.1(b) of the Model Code of Conduct provides that council officials must not conduct themselves in a manner that is contrary to a council's policies. If adopted by a council, a breach of an interaction policy may also constitute a breach of council's code of conduct.

50. In the context of interactions, the community participation guiding principle (s.8A(3)), provides that councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.
51. The IP&R framework occurs in an on-going cycle. In this cycle there is a process of evaluation, review and reporting. Each step is an important feature of the strategic planning process. As the reports are made to council meetings, the information is readily available to members of the community.
52. For this reason, reporting is also an important accountability mechanism between the council administration and the councillors, and between the council and the community. There are four layers of reporting
- The Quarterly Budget Review Statement (QBRs) allows the elected council to monitor actual income and expenditure against the forecast, and make adjustments if necessary (this might trigger a change to the DP, or inform the next OP).
 - At least every six months the GM reports to the elected council with respect to the principal activities detailed in the DP. This enables the councillors to understand how the council is tracking in the context of its commitment to the community, and in relation to the financial information provided in the QBRs.
 - The Annual Report focuses on the councils' implementation of the DP and OP (and also includes other information prescribed in the Regulation and in other legislation). This report should seek to ask and answer the questions: "How much did we do, and how well did we do it?" (the quality of the outputs).
 - The 'state of our city' report reports on the progress of implementation of the CSP, and is prepared by the outgoing council at the end of their term and tabled at the second meeting of the new council. It should consider the effectiveness of the CSP in achieving its social, environmental, economic and civic leadership objectives. This is a key component in the CSP review by the new council.
53. The multiple points of interaction create opportunities for both friction and co-operation. Several factors contribute to a good relationship between councillors and staff. These include goodwill, understanding of roles, communication, protocols, and a good understanding of legislative requirements.
54. In general terms, the role of staff within the council role is to advise the governing body, implement Council's decisions and to oversee service delivery.
55. It needs to be appreciated, especially by councillors, that it is a highly complex task to prepare information and provide quality advice on the very wide range of issues that Council operations cover.
56. In that context, councillors have a right to request information provided it is relevant to councillor's exercise of their civic functions. This right does not extend to matters about which a councillor is merely curious.

57. However, councillors do not have a right to request information about matters that they are prevented from participating in decision-making on because of a conflict of interest, unless the information is otherwise generally publicly available.
58. It is open to the GM to identify council support staff with responsibility for the management of requests from councillors. It is also open to the council to adopt a policy to regulate interactions between councillors and staff.
59. For councillors to effectively carry out their role in accordance with the LG Act, and to ensure an appropriate decision-making environment prevails, councillors may need to appreciate that:
- staff are not accountable to them individually
 - responses to requests for information from councillors may take time and consultation to prepare and be approved prior to responding
 - councillors must not direct staff except by giving appropriate direction to the General Manager by way of a council or committee resolution, or by the mayor exercising their functions under section 226 of the Act
 - they must not, in any public or private forum, direct or influence, or attempt to direct or influence, a member of staff in the exercise of their functions
 - they must not contact a member of staff on council-related business unless in accordance with an appropriate approval issued by the GM.
 - they must not use their position to attempt to receive favourable treatment for themselves or others
60. Ultimately, it is the general manager who is responsible for the efficient and effective day-to-day operation of the Council and for ensuring that the lawful decisions of the Council are implemented without undue delay.

Community involvement

61. The Councillor Handbook published by OLG sets out in section 5 the importance of community strategic planning (CSP). Essentially, CSP is the process by which a council, with its community, establishes a vision for the future of the local government area, and develops goals, objectives, strategies and actions to achieve that future.
62. The mayor, as the leader of the council, is the public face of the planning process. The mayor is responsible for explaining the purpose of the community strategic plan to the community and for encouraging public support for the planning process.
63. It is important that all councillors support and are fully committed to the value of community strategic planning. For this reason, each individual councillor has a statutory responsibility to participate in the development of the integrated planning and reporting framework. It is a specific role of councillors that they

represent the collective interests of residents, ratepayers and the local community (s.232(1)(d)).

64. The general manager has a pivotal role to play in mapping out the council's approach to the planning process and ensuring the community receives the information it needs to participate in a meaningful way. The general manager will also be responsible for guiding the preparation of the community strategic plan and council's response to it via the delivery program.
65. It is a matter for each council to decide how to engage with its community. A council may take a poll of electors for its information and guidance on any matter (s.14). There are also informal means such as surveys, community meetings, and the establishment of committees to assist the council in the exercise of its functions.
66. It is noted that Wingecarribee Shire Council has a specific 'Your Say Wingecarribee' page on its website. It is a page where the public can be informed of major projects and is a point of communication to receive community input. It is accessible at: <https://www.yoursaywingecarribee.com.au/>
67. Ultimately, councillors are accountable to their community through the process of election which is regulated in Chapter 10 of the LG Act.

Codes of Conduct and Meetings

68. All councillors, council delegates and staff of councils have an obligation to act honestly, ethically and responsibly in carrying out their functions.
69. All councils are required to adopt a code of conduct, based on the Model Code of Conduct for Local Councils in NSW, which is prescribed under the LG Act and the Local Government (General) Regulation 2021 (cl 180). A copy of the Code is accessible at:
<https://www.olg.nsw.gov.au/wp-content/uploads/2020/08/Procedures-for-the-Administration-of-the-Model-Code-of-Conduct-2020.pdf>
70. The current framework for dealing with complaints about councillor misconduct is multilayered with complaints escalated based on the seriousness of the alleged conduct and the severity of the disciplinary action attached to it.
71. Complaints alleging breaches of a council's code of conduct by a councillor are required initially to be dealt with locally by the council concerned in accordance with the Model Procedures.
72. Code of conduct complaints about councillors must be made in writing to the general manager of a council at first instance. The general manager (or a person authorised to exercise the general manager's complaints management functions in relation to code of conduct matters) has a discretion to decline code of conduct complaints about councillors at the outset or to informally resolve them. The Model Procedures set out grounds on which complaints may be declined at the outset.

73. If a complaint is not declined or informally resolved at the outset, it is referred to an independent expert conduct reviewer who will deal with the matter at arms' length of the council. The conduct reviewer will undertake a preliminary assessment to determine how the matter should be dealt with.
74. Conduct reviewers may decline or informally resolve complaints at the preliminary assessment stage by means such as explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology, or an undertaking not to repeat the offending behaviour.
75. Where, following a formal investigation, a conduct reviewer determines that a councillor has breached the code of conduct, the conduct reviewer may recommend that the council formally censures the councillor for the breach and, where the breach is serious, that the matter is referred to OLG for further disciplinary action under the misconduct provisions of the Act.
76. Where the council censures a councillor for a breach of the code of conduct, the council must specify in its resolution the grounds on which the councillor is being censured. It does this by disclosing in the resolution the conduct reviewer's findings and determination. This information is recorded in the minutes of the meeting, thereby ensuring the councillor is publicly accountable to their electors for their conduct.
77. Serious breaches of the code of conduct may also be referred to OLG for further disciplinary action. Some matters are automatically deemed to be serious and are referred to OLG for consideration instead of being dealt with by councils. These include allegations of:
- pecuniary interest breaches
 - failure to disclose conflicts of interest arising from the receipt of political donations, and
 - breaches of the "integrity" provisions of councils' codes of conduct (ie misuse of the code of conduct, reprisal action, disclosure of information about code of conduct matters and failure to comply with a council resolution)
78. The departmental chief executive of OLG can take disciplinary action (s.440I) or refer more serious matters to the NCAT. Disciplinary action can include suspension from office or suspension of the payment of fees for up to three months by the departmental chief executive, or for up to six months by the NCAT.
79. The NCAT can also disqualify a councillor from holding office in any council for up to five years. Councillors who have been suspended by either the departmental chief executive or the NCAT on three or more occasions are automatically disqualified for five years (440J).
80. In the case of pecuniary interest breaches, the departmental chief executive can also apply to the Supreme Court for an order requiring a councillor to pay

to the council any financial benefit they received from a pecuniary interest breach.

81. The rules and procedures under the code of conduct have been put in place to ensure that councils function effectively and appropriately and to prevent and regulate inappropriate behaviour and misconduct. The Conduct Code prescribes the minimum ethical and behavioural standards all council officials in NSW are required to comply with.
82. Essentially, the Code assists a councillor to:
- act lawfully and honestly and to exercise care and diligence
 - consider matters consistently, promptly and fairly and in accordance with procedures
 - ensure regulatory decisions are properly made and that all parties are dealt with fairly
 - comply with work health and safety requirements
83. The provisions of the Code make it clear that a councillor must not conduct themselves in a way that:
- will bring the council into disrepute
 - is contrary to law and council policies
 - is improper, unethical or an abuse of power
 - involves misuse of your position for personal benefit
 - constitutes harassment or bullying or is unlawfully discriminatory, or
 - is intimidating or verbally abusive

Meetings

84. As well, all councils are required to adopt a code of meeting practice, based on the Model Code of Meeting Practice for Local Councils in NSW, which is also prescribed under the Regulation. A copy of the Code is accessible at: <https://www.olg.nsw.gov.au/wp-content/uploads/2021/10/Model-Code-Meeting-Practice-2021.pdf>
85. Council and committee meetings are the key forum in which councillors exercise their role as members of governing body of the council and make decisions that are in the best interests of the council and the broader community.
86. The LG Act makes provision in Part 1 of Chapter 4 for the conduct of meetings. This Part deals with the giving of notice, who is entitled to attend a meeting, who is entitled to access correspondence and reports, and how meetings may be closed to the public.
87. Further provision for meetings is made in Part 2 of Chapter 12. Division 2 sets out how often a council should meet, the giving of notice of the meeting, the procedure for calling an extraordinary meeting, what is a quorum for a meeting, who presides at the meeting, decisions, rescissions, recording of voting on planning matters and the taking of minutes.

88. The Act also makes provision for the Regulations to prescribe a model code of meeting practice (s.360). The Meeting Code deals with most aspects of how the meeting is to be conducted, what is expected of councillors, the procedure for debate and other procedural matters. The Code also deals with the requirements for pre-meeting briefing sessions.
89. If a councillor contravenes a mandatory provision of the Meeting Code they commit an act of disorder (s.490A). The Regulations also provide that a councillor commits an act of disorder if they engage in conduct proscribed by cl 182 of the Regulation. An act of disorder is misconduct (s.440F). The Code of Conduct has a separate obligation under clause 3.22 of the Code regarding an act of disorder.
90. It is critical that the community can have confidence in the decisions made on its behalf by councillors at meetings. The minutes of a meeting must ensure that full and accurate record of the proceedings are kept. When the minutes have been confirmed at a subsequent meeting of the council, they are to be signed by the person presiding at that subsequent meeting.
91. The Meeting Code is designed so that meetings are conducted in an orderly, respectful way and that decisions made are informed and soundly based. The Meeting Code requires a councillor to abide by rulings of the chair. To maintain order at a meeting the Code prohibits a councillor from engaging in disruptive or disorderly behaviour. A councillor cannot bully the chair or other councillors or council staff and members of the public attending meetings.
92. The Meeting Code also prohibits councillors from engaging in conduct at meetings that prevents the proper or effective functioning of the council including by:
- leaving the meeting to deprive it of a quorum
 - submitting a rescission motion and then voting against it to prevent another councillor from submitting a rescission motion in relation to the same decision, or
 - impeding the consideration of business at the meeting.
93. There are potentially three ways in which an act of disorder may be managed. The Meeting Code provides that an act of disorder is able to be managed by the chairperson during the course of the meeting. Additionally, as an act of disorder is identified in both the Code and the Act, it is possible that any alleged breach may be considered by council in accordance with the procedures of the Conduct Code, and/or by a separate investigation under the misconduct provisions.

Delegations and confidentiality

94. The LG Act makes provision for the manner in which a council may exercise its functions (s.355). One way available is for the function to be exercised by a delegate of the council (s.355(e)). Section 377(1) of the Act permits the council,

by resolution, to delegate its functions except for the prescribed list of functions set out in the section.

95. Further, section 379 limits the council's ability to delegate its regulatory functions to only those persons or body named in the section.
96. The general manager may delegate functions conferred on the GM and the Act permits the GM to sub-delegate a function delegated to the GM by the council to any person or body, including another employee of the council (s.378).
97. The council must review all delegations during the first twelve months of each term of office (s.380).
98. It is important to note that the LG Act makes it an offence against the Act for a person to disclose any information obtained in connection with the administration or execution of the LG Act, to use information that is not generally known for the purpose of gaining either directly or indirectly a financial advantage, or to use information to gain an advantage or to influence the determination of an application for approval or the giving of an order (s.664).
99. Allegations of a breach of the confidentiality provisions should be referred to OLG. The departmental chief executive of OLG has extensive powers under the LG Act in connection with an investigation into any aspect of a council, its work and activities. These powers extend to investigating whether or not there has been a breach of the Act, including the provisions of s.664.

Approved: Ally Dench, Executive Director Local Government

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