

ITEM NO: 2**SUBJECT: SCHEDULE OF INVESTED MONIES****FILE NO: F03848**

Recommendation:

That the Schedule of Invested Monies for March 2009 be received.

Report by Group Manager, Community & Corporate:

This report is submitted for the purpose of financial accountability and in satisfaction of the investment reporting requirements of the Local Government (General) Regulation 2005 (REG 212) and the Local Government Act, 1993 (Section 625). The report also certifies that the Council investments comply with the forms of investment made by order of the Minister under section 625(2) of the Local Government Act 1993. The current Ministerial Order was issued under the Council Circular 08-48 on 18 August 2008.

The Schedule of the Council Invested Monies for March 2009 is attached for information (refer Table 1).

The decreased returns, below budget as at March 2009, on the Council investments are due to the falling interest rates that were not anticipated for the financial year (refer Table 6).

Valuations and credit ratings have been calculated and updated to 31 March 2009 for all the Council investments (with the exception of the CBA – Palladin Portfolio note that is valued as at 31 October 2008; Averon Series AF7 Floating Rate Note, Bendigo Bank Floating Rate Note, CBA Equity Linked Note and Athena Series 1 Camelot Notes valued as at 28 February 2009) and shows the Council investment's fair value market valuation reducing by \$203,136 (refer Table 2).

The financial impact on the Council's investment portfolio is that the mark to market valuation of the Council investment securities, classified as fair value through the profit and loss statement, has now been reduced by a total of \$7.2m indicatively between 1 July 2007 and 31 March 2009. If the Council were forced to sell these securities for liquidity reasons it could potentially realise a loss based on current market conditions. However, based on current cash flow projections, there is no short-term requirement to liquidate the long-dated investments for cash flow needs. The Council continues to monitor and review the liquidity position so that any potential future financial impacts can be understood for proactive decision making to be considered by the Council.

Global and domestic issues

The financial markets suddenly look a little more optimistic and there have also been tentative signs of an improvement in investor sentiment.

In Australia, financial markets took heart from the reassuring words from the Reserve Bank of Australia on the good health of Australia's financial system compared to the rest of the world.

During March 2009 the following occurred (not an exhaustive list):

- US Federal Reserve announces plan to free financial firms of their toxic assets via the Private-Public Investment Program;
- Global financial policy now looks increasingly coordinated;
- Equity markets rallied strongly across the world;
- The Reserve Bank of Australia believes the Australian Banking System is “considerably better placed to weather the current challenges...”, noting solid bank profitability, sound capitalisation and high credit ratings; and
- Australian financial markets are starting to believe we are at the bottom of the rate cut cycle.

The Council Investment Position

The credit market opportunities, corporate default rates, the Lehman Brothers Holding Inc. bankruptcy and the Lehman Brothers Australia Ltd administration continue to be reviewed by the Council independent investment advisor Oakvale Capital, in conjunction with advice from the Council legal advisor, Piper Alderman.

Lehman Brothers Holdings Inc (LBHI) continues proceedings in the United States Bankruptcy Court. The Council continues investigating and keeping abreast of developments with our legal advisors the process of early termination of the securities for which LBHI is a swap counterparty (i.e. Zircon and Beryl securities). There have been estimates of recovery rates of 70-95% but these are very preliminary and we have chosen instead to value these securities much more conservatively until the position is more certain (refer Table 1).

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SCHEDULE OF INVESTED MONEY - March 2009 (Table 1)							
Institution & Fund	Original Rating	Current Rating	Return for month	Face Value	Investment Valuation (Net)	Investment Valuation (Net) Previous Month	Comment on movements and valuation
IAB Professional Funds A/C (at call)	n/a	n/a	3.25%	8,305,323	8,305,323	6,182,438	Cashflow investment
CBA Bank Bill (maturity 13/3/2009)	A1/AA-	A1/AA-	4.12%		0	1,000,000	Re-investment on 13/3/09
IAB Term Deposit (maturity 25/3/2009)	A-1+	A-1+	3.88%		0	1,000,000	Re-investment on 25/3/09
ANZ Term Deposit (maturity 1/4/2009)	A-1+	A-1+	3.84%	1,000,000	1,000,000	1,000,000	
Westpac Term deposit (maturity 15/4/2009)	A-1+	A-1+	4.20%	1,000,000	1,000,000	1,000,000	
CBA Bank Bill (maturity 11/6/2009)	A1/AA-	A1/AA-	3.16%	1,000,000	1,000,000		Re-investment from 13/3/09
IAB Term Deposit (maturity 23/6/2009)	A-1+	A-1+	3.70%	1,000,000	1,000,000		Re-investment from 25/3/09
Bendigo Bank FRN	BBB	BBB	5.50%	1,000,000	849,200	849,200	Valuation 28/2/09
CBA – Palladin Portfolio Note	AA	BBB-	0.00%	500,000	0	0	Valuation as at 31 October 2008
Generator Income Notes (administered by Rim Securities Ltd)	AAA	AAA	1.94%	1,000,000	260,030	166,000	Valuation 31/3/09.
Macquarie Cash Management	AAA	AAA	4.25%	151,775	151,775	151,775	Interest received for the month held in cash mgt.
Averon Series AF7 Floating Rate Note (administered by ANZ Bank)	AAA	AAA	0.00%	500,000	251,900	251,900	Valuation 28/2/09.
CBA – Equity Linked Note	AA	AA	3.00%	1,000,000	1,001,520	1,001,520	Valuation 28/2/09.
Athena Series 1 Camelot Notes (administered by ICAP)	AA-	AA-	0.00%	500,000	456,548	456,548	Valuation 28/2/09.
Aphex Pacific Capital Phoenix Notes (administered by ABN-AMRO Morgans)	AA1	AAA	6.30%	500,000	366,650	409,645	Valuation 31/3/09.
Investments arranged by Lehman Brothers:-							
Adelaide Bank FR Sub Debt	BBB+	BBB+	4.09%	750,000	754,540	752,331	Valuation 31/3/09.
Adelaide Bank FR Sub Debt	BBB+	BBB+	3.84%	1,500,000	1,425,189	1,431,447	Valuation 31/3/09.
Aphex (Glenelg)	AA-	B	5.85%	280,000	16,293	19,012	Valuation 31/3/09.
BEL0 (Kalgoorlie)	AA+	AA+	4.46%	600,000	466,787	473,631	Valuation 31/3/09.
Bendigo Bank FR Sub Debt	BBB+	BBB+	3.63%	500,000	500,277	504,107	Valuation 31/3/09.
Bendigo Bank FR Sub Debt	BBB+	BBB+	3.83%	500,000	503,225	501,669	Valuation 31/3/09.
Corsair (Torquay)	AA	CCC-	4.21%	300,000	2,750	5,252	Valuation 31/3/09.
Corsair (Kakadu)	AA-	B	4.01%	300,000	13,219	15,919	Valuation 31/3/09.
Elders Rural Bank Sub Debt	BBB-	BBB-	4.76%	500,000	457,291	458,535	Valuation 31/3/09.
Beryl (AAA Global Bank Note)	AAA	CCC-	4.75%	350,000	2,595	5,191	Valuation 31/3/09.
Helium (Esperance)	A+	CCC+	4.71%	450,000	26,604	30,700	Valuation 31/3/09.
Helium(Scarborough)	AA	CCC-	4.33%	1,100,000	9,471	18,260	Valuation 31/3/09.
Herald Limited (Quartz AA)	AA	BB+	4.51%	250,000	44,663	44,103	Valuation 31/3/09.
HSBC FRN	AA-	A	3.31%	1,000,000	798,882	872,159	Valuation 31/3/09.
Lehman CPPI	AA-	D	0.00%	250,000	0	0	Valuation 31/3/09.
Magnolia (Flinders)	AA	AA	4.51%	550,000	233,081	366,629	Valuation 31/3/09.
MAS6-7(Parkes)	AAA	CCC+	4.01%	250,000	10,626	13,065	Valuation 31/3/09.
Start (Blue Gum) (Jun 13)	AA-	CCC-	4.43%	300,000	1,704	3,900	Valuation 31/3/09.
Zircon (Miami) (Mar 17)	AA	C	5.75%	95,000	336	920	Valuation 31/3/09.
Zircon(Merimbula) (Jun 13)	AA	C	5.20%	400,000	1,247	3,478	Valuation 31/3/09.
Zircon (Coolangatta) (Sept 14)	C	C	5.85%	450,000	1,503	4,149	Valuation 31/3/09.
Total				28,132,098	20,913,229	18,993,480	

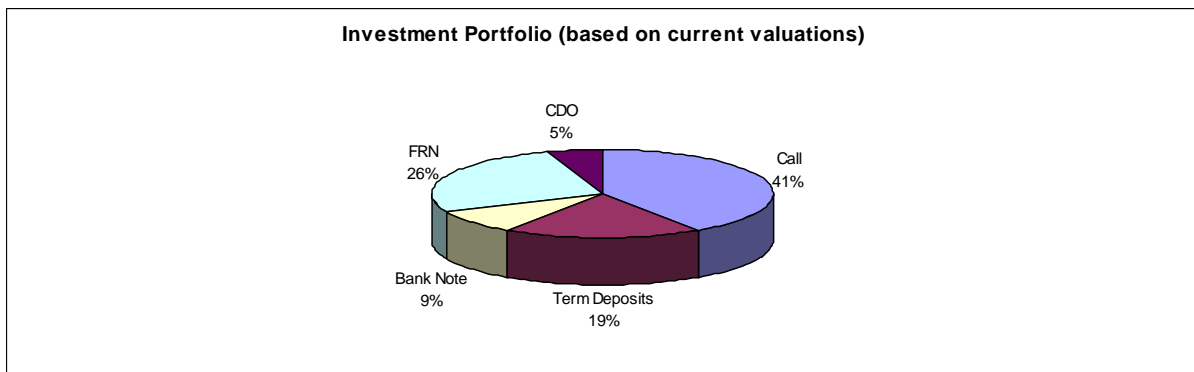
(Table 2)

Balance of investments February 2009 (Market Value)	18,993,480
Funds invested during month (Gross)	3,100,000
Funds withdrawn during month (Gross)	(1,000,000)
Interest re-invested during month	22,885
Revaluation of investments during month. Favourable/(Unfavourable)	(203,136)
Balance of investments February 2009 (Market Value)	20,913,229

BBSW 30 Days 3.2%
Average Rate of Return for Month 3.6%

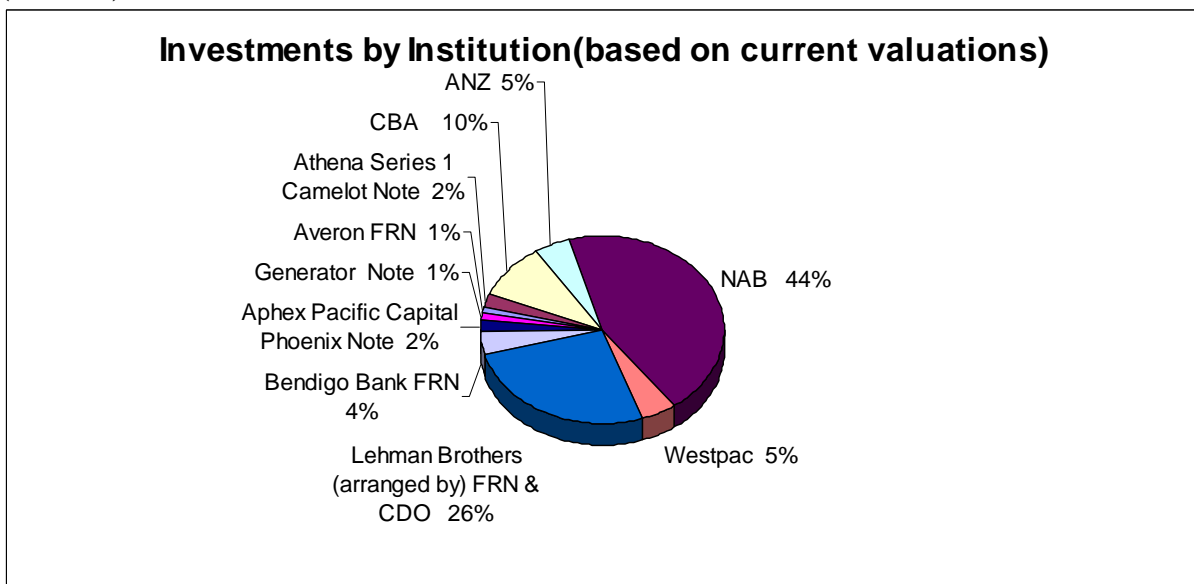
Current market valuations of all investments are as at 31 March 2009 unless otherwise advised in the comments column in Table 1. It is also important to note that valuations are indicative only with no assurance that trades could be completed at such values.

(Table 3)

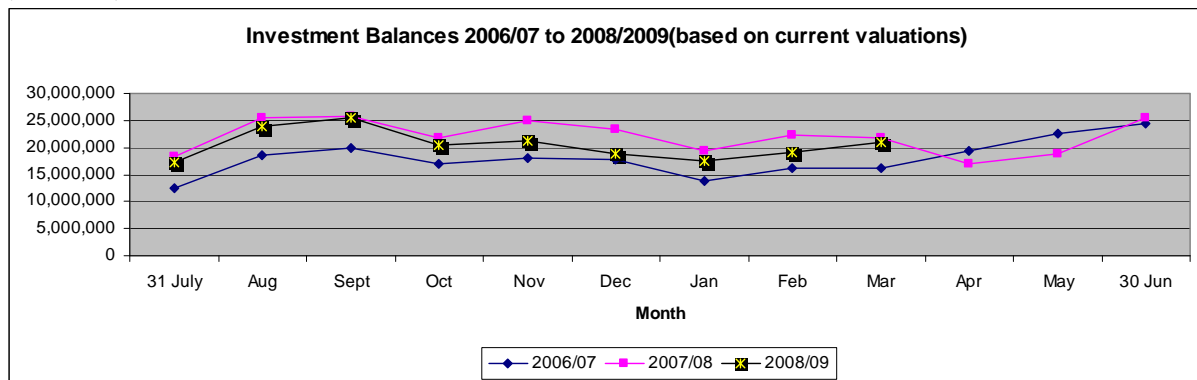


- Call – Cash at Call
- Term Deposits – Deposits for Fixed Term
- Bank Note – Structured Notes
- FRN – Floating Rate Note
- CDO – Collateralised Debt Obligation

(Table 4)



(Table 5)



(Table 6)

Interest Income (Accrued/Not yet received) - Budget vs. Actual

	Actual	Budget
Income to 28 February 2009	964,877	876,168
Income for month March 2009	81,547	109,521
Total Accrued Income to date	1,046,424	985,689
Less restricted income for RTA contribution – Lawson Town Centre and Property Investment Fund	(111,809)	
	934,615	985,689
Estimated for remainder of year	379,635	328,561
Estimated total 2008/2009	1,314,250	1,314,250

I certify and report that the Schedule of Invested Monies listed above describes all the Council funds invested by virtue of Section 625 of the Local Government Act, 1993. The monies referred to in this Schedule are invested in accordance with the Local Government Act, 1993 (Section 625 and Order of the Minister dated 18/08/2008), and Local Government Regulation 1999 (Clause 16).

Neil Farquharson
Responsible Accounting Officer

ITEM NO: 3

SUBJECT: POLICY FOR COUNCILLOR ACCESS TO INFORMATION,
COUNCIL OFFICERS AND COUNCIL PREMISES

FILE NO: F00296

Recommendation:

That the Council adopt the Policy for Councillor Access to Information, Council Officers and Council Premises 2009.

Report by General Manager

Introduction

Council maintains a Policy for Councillor Access to Information, Council Officers and Council Premises to assist Councillors and staff to manage Councillor access issues in their individual roles. This policy operates in association with the Council's Code of Conduct 2008 in the management of access to both information and facilities and any related policy breaches. This policy was reviewed in conjunction with the 2008 Election of Councillors and the formation of a new four year Council.

The *Draft Policy for Councillor Access to Information, Council Officers and Council Premises 2009* went to Council on the 21 October 2008 to be placed on public exhibition (Minute No: 688).

Background

The Local Government Act 1993 outlines the role of Councillors (Section 232), the role of the General Manager (Section 335) and the role of the Public Officer (Section 343).

There is a separation of responsibilities and accountabilities for these roles under the Act which has implications for access to information, the management of Council staff and access to Council premises for Councillors.

The following policies and their contents relative to Councillor access and management responsibilities have informed the review of this policy:

- Council's Code of Conduct 2008;
- Council's Access to Information Policy 2007;
- Draft Council's Code of Meeting Practice 2008 (on public exhibition); and
- Council's Statement of Business Ethics 2007.

Public Exhibition Process

The *Draft Policy for Councillor Access to Information, Council Officers and Council Premises 2009* was placed on public exhibition from 3 November 2008 to 1 December 2008.

There were no submissions received in relation to the public exhibition process. The Changes contained in the Enclosure, which are displayed through tracked changes, are a result of reflecting relevant elements of the Council’s Code of Conduct.

Sustainability assessment

Type	Positive	Negative
Economic	Nil	Nil
Social	Enables Councillors to understand their rights to access information, council staff and premises so that they may be supported to make positive governance decisions for the local government area while complying with the Council Code of Conduct 2008.	Nil
Environmental	Nil	Nil

Financial Implications

The recommendation to approve the attached policy has no budget implications.

Legal and Risk Management Issues

Improves the risk management of the Council in terms of ensuring Councillors are informed of their rights to access information, Council officers and Council premises while ensuring risks are managed in accordance with Council’s Code of Conduct.

External Consultation

A period of public exhibition was undertaken, no further consultation required.

Conclusion

The Policy for Councillor Access to Information, Council Officers and Council Premises 2009 be adopted.

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Enclosure

ITEM NO: 4

SUBJECT: ADOPTION OF CODE OF MEETING PRACTICE, 2009

FILE NO: F02471

Recommendation:

That the Council adopt the Code of Meeting Practice 2009.

Report by General Manager:

Reason for report

At the Council Meeting of 27 January 2009 the Council endorsed the revised Code of Meeting Practice 2009 for the purpose of public exhibition for a period of 28 days (Minute No. 8). The public exhibition period ended on Monday 2 March 2009. This report presents a summary of the submissions received, those submissions that have been incorporated into the Code, a rationale for those submissions that have not been included and recommends adoption of the revised Code.

Background

In accordance with Section 360 of the Local Government Act 1993, a Code of Meeting Practice was adopted by Blue Mountains City Council in 2000. Changes made since 2000 include:

- Council meetings were moved to a three-weekly meeting cycle as recommended in the review of 20 November 2001;
- An amendment to deal with matters En Globo was incorporated into the amended Code as part of the 2001 review;
- The Business Paper timeframe was changed to enable publishing of the Council Business Paper five working days prior to the Council Meeting. The closing date for Councillors to submit items of business was moved to Monday, i.e. eight working days prior to the Council Meeting;
- The review of the Code on 5 September 2006 precluded the use of mobile phones in the Council Chambers, for both Councillors and the public; and
- In October 2007 sections on Pecuniary and Non-Pecuniary Interest and Access to Information were added.

Proposed changes to the Code of Meeting Practice for 2009

Several changes to the Code of Meeting Practice were proposed prior to the public exhibition period in February 2009. These were highlighted as tracked changes in the publicly exhibited document:

- Change to Index for additional item at 1.8.1;
- Changes to Clause 1.6, Participation in the Council Meetings regarding earlier registration times for public speakers and closure of registrations prior to commencement of the meeting and the process for late registrations to assist with meeting management by the Chair;
- Clause 1.7: inclusion of notebooks as electronic devices capable of recording speech.

- Sub-clause 1.8.1 added outlining the right of members of the public to make representations to the Council in regard to a Confidential Session;
- Addition of sub-clause 2.2.1 relating to types of business submitted by Councillors to include: Councillor Reports, requests for correspondence as an acceptable form of Notice of Motion, and details on the process for lodging a rescission motion to include initial email acceptance;
- Additional information on the Chairperson’s casting vote in sub-clause 3.1.4.
- Addition of Clause 3.3.2 dealing with Recommittal of Items being an issue that needs to be considered in terms of the requirements for a Rescission Motion;
- Additional information in Subclause 3.9.1 regarding standing to address the Council;
- Additional information in Clause 4.1 and 4.2 relating to Rescission Motions; and
- The addition of an Index to assist with searching for an item.

Public exhibition process

The Council resolved to place the Draft Code of Meeting Practice on Public Exhibition at the Council Meeting of 27 January 2008, Minute No. 8, in accordance with the requirements of the Local Government Act Section 160 (2) and (3).

The draft policy document was exhibited between Monday, 2 February 2009 and Monday, 1 March 2009 with receipt of submissions closing on Monday 6 October 2008.

The Public Exhibition process was advertised in the Blue Mountains Gazette and on the Council Website. The Public Exhibition process now sees the policy returned post-exhibition to be adopted by the Council.

Two submissions were received. The following table outlines the issues raised in these submissions and the recommended Council response:

Item No	Summary of Submission	Council Comment	Recommended Action
1	RE the proposed change to Part 1.7 of the Code I would like to suggest that the words " will be permitted " be changed to " may be used ". The reference to ‘notebooks’ should read <u>notebook computers</u> . These changes would allow notebook computers to be brought to Council meetings , as long as they aren't used to record the proceedings.	Agreed	Included
2	Members of the public should be permitted to address the Council on any items of business in the Business Paper including Minutes by the Mayor, responses to Questions without Notice, Notices of Motion including Rescission Motions, the Precis of Correspondence and Matters of Urgency. This will allow the Councillors to make more informed decisions.	The Public may address Notices of Motion when the report comes back to the Council. Questions With and Without Notice are for information only and are not in the form of a report with recommendations.	Not included

Item No	Summary of Submission	Council Comment	Recommended Action
3	Members of the public should not have to remain behind the roped barrier located in front of the Councillors seating prior to and after the meeting when speaking to Councillors. Members of the public have a legitimate right of access to their elected representatives.	Councillors may mingle with the public prior to, and after a meeting outside of the roped area. The roped area is out of bounds due to confidential documentation often being placed at the Councillors' seat . This has also been a request of Councillors for when the Council is in session.	No change
4	Members of the public should be permitted to address the Council on any items of business if that item of business has not yet commenced. Registration should not be required prior to the commencement of the meeting. This recent change by Council staff is contrary to current meeting practice. Notwithstanding my opposition to this change, all Councillors should decide whether a member of the public who has not registered prior to the meeting, is permitted to address the Council.	Part 1.6.1 of the Code is recommending that the Chair can register a speaker if, due to exceptional circumstances, they were unable to complete a registration form prior to the commencement of the meeting. Other Councils require speakers to Register 24 hours prior to the meeting and provide their speaking points. The Chair, on receipt of the registration, then decides whether the speaker is allowed. The LGA 1993 provides guidelines on the role of the Mayor as Chair of the Council Meeting.	Included in draft on public exhibition.
5	Where there are more than 3 public speakers who wish to address the Council, all Councillors, not the Mayor alone, should decide whether to increase the number of speakers.	The Chair of the meeting is the Mayor as per the LGA (1993). The Chair considers <ul style="list-style-type: none"> o Items on the BP; o Complexity of issues; and o Equity. A decision is then taken by the chair on due process. 	Not included
6	Public speakers should be permitted to address the Council for 5 minutes. Extensions of time should also be granted by a decision of all Councillors where the item of business is large and/or significant and/or complex.	The current time limit has been effectively in place prior to 2000. With only one known objection. The Chair has the authority to extend the timeframe. This practice is used by other Councils.	Not included
7	Following a resolution of the Council to close the meeting to the public, the Chairperson MUST call for members of the public to make representations as to why the meeting should not be closed.	This is a recommended inclusion at sub-clause 1.8.2 for the 2009 Code.	Included in draft for public exhibition
8	Following a resolution of the Council to close the meeting to the public, public speakers should be permitted to address the Council for 5 minutes. Extensions of time should also be granted by a decision of all Councillors where the item of business is large and/or significant and/or complex.	Section 1.8.2 of the draft Code sets a limit of 3 minutes for speakers to make a representation to the Council. This is considered adequate for reports highlighting confidential items.	Included in draft for public exhibition

Item No	Summary of Submission	Council Comment	Recommended Action
9	References in an appendix should be made to all the relevant sections of the Local Government Act and Regulation and the Department of Local Government's guidelines with regards to the Code of Meeting Practice.	Currently references to the relevant sections of the LGA and Regulations are in the Contents Page of the Code.	Included in draft for public exhibition
10	Items not listed in the business paper should be disclosed at the start of meetings with copies of the business items available to members of the public. Members of the public should also be given the opportunity to address these business items. The Council's web site should also include the additional items.	The current practice is to post Supplementary items and Mayoral Minutes to the internet as soon as practicable after they are available. There are three copies made available at the meeting for members of the public.	Not included
11	Both the questions and the responses to Questions with or without Notice should be included in the meeting minutes as they occur.	Current practice has Questions without Notice appearing in the Minutes. Report titles refer to their being Questions with Notice and therefore are a public record. Responses to Questions with and Without Notice are printed in the Business Paper and as such are a public record..	Not included
12	5 days minimum notice should be given for extra-ordinary meetings. Notices of extra-ordinary meetings should be displayed in Council offices, libraries and web site. Newspaper notices should also be provided where possible.	Section 367 of the LGA specifies 3 days notice for ordinary and extraordinary meetings. Less notice may be given for extraordinary meetings dealing with an urgent matter. Section 367 outlines that a notice of meeting must be published on the Public Notice Board. BMCC currently do this as well as post the meeting to the Council website as soon as practical after announcement. In 2007 there were two extraordinary meetings and in 2008 there was one extraordinary meeting.	Not included
13	Council working party and committee meeting minutes should be made available on the Council's web site. These meetings should be open to members of the public.	The Code outlines that Committees of Council fall under this policy. Working Parties were not a Committee of Council.	Not included
14	The Precis of Correspondence should include both complaints and commendations.	This was debated by the Council in 2006 and 2007 and foregone due to size and cost of Business Paper publication. Council has a Customer Request System for recording such items.	Not included

Item No	Summary of Submission	Council Comment	Recommended Action
15	Court matters, progress and outcomes should be reported at Council meetings.	This is a Code of Meeting Practice for conduct of meetings. Legal issues are contained within the Annual Report. Due to litigation matters and the confidentiality of such matters it is considered detrimental to Council's legal position to publish the Council position relative to progress and status. Outcomes of cases are published on the relevant Court website.	Not included
16	Business Paper reports should include greater detail and accurate information (i.e. for development applications, environmental matters and public submissions including legible photographs, maps and drawings). Environmental maps should be included in development application reports considered by the Council.	Detail and accuracy is always considered in presentation of reports.	Noted but not included
17	The Code of Meeting Practice should be revised every two years instead of once every four years.	Currently reviewed as per LGA 1993 and in line with election of new council every four years.	Not included
18	Question with Notice explanation	An explanation outlining the intended use of a Question with Notice by Councillors is included in Section 2.2 of the Draft Code.	Included
19	Some consistent application of wording in Clauses 3.1.4 and 4.3	Clauses used words not passed when it should state 'not carried' for motions where the voting is equal	Included

Sustainability assessment

Type	Positive	Negative
Economic	Prevents legal disputes	Nil
Social	Provides clear guidelines for members of the public on Council Meeting Practices.	Nil
Environmental	Nil	Nil

Financial Implications

The recommendation to approve the attached policy has taken consideration of Business Paper production and Council Meeting requirements. The current proposal does not require an increase in Council expenditure.

Legal and Risk Management Issues

The Council maintains and updates a Code of Meeting Practice in accordance with Section 360 of the Local Government Act. By enhancing clarity and certainty on aspects of Meeting Practice not covered by the Local Government Act 1993 and the Local Government (General) Regulation 2005 the Code of Meeting Practice provides clear guidelines for both the public and the Council.

Conclusion

The draft Code of Meeting Practice is presented for adoption with suggested changes marked in the enclosed document.

* * * * *

Enclosure

ITEM NO: 5

SUBJECT: REVISED GENERAL POWER OF ATTORNEY

FILE NO: F01261

Recommendations:

1. *That the holders of the following positions, the Mayor, the General Manager, and the Public Officer, be appointed as Council's attorneys to execute on Council's behalf all documents necessary to give effect to resolutions of Council and/or any duty properly delegated by Council.*
 2. *That the instrument of appointment of the holders of the following positions, the Mayor, the General Manager and the Public Officer, be registered with the Department of Lands as Council's attorneys.*
 3. *That authority be granted for the affixing of the Council Seal to the General Power of Attorney instrument to give effect to the abovementioned arrangements.*
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Report by General Manager

Reason for report

The incumbents of the positions of the Mayor, the General Manager, and the Public Officer are Council's appointed attorneys, which enable them to execute documents relating to those matters which are able to be delegated by the Council under the Local Government Act.

The current Power of Attorney appoints: James Charles Angel, Mayor; Peter Michael Willis, General Manager; and Julie Bargaquast, Executive Officer. The Power of Attorney requires revision to come in line with current appointments to these positions, being: Adam David Searle, Mayor; Philip Leonard Pinyon, General Manager; and, Julie May Bargaquast, Executive Officer.

Background

The Power of Attorney, outlined in Attachment 1, is a verification tool for parties to transactions with the Council, who have no detailed knowledge of the Local Government Area or of the delegations/authority structures that it puts in place. The signature of a document under Power of Attorney communicates unquestioned authenticity.

Three attorneys are appointed, as the incumbents of the positions of Mayor, General Manager and Executive Officer, to ensure that at least one of the attorneys is available, when required. Usually, the appointments are intended to cover periods of leave and absence, including work related absences.

The Power of Attorney cannot be delegated to other persons.

Council has been advised by the Department of Lands, Land and Property Information NSW that Council signed documents such as leases must be signed under the Power of Attorney

and signatures must be accompanied by the Power of Attorney book number for the purposes of validation and verification of authenticity of signing authority.

Sustainability Assessment (Triple Bottom Line Reporting):

Effects	Positive	Negative
<u>Environmental</u>	Nil	Nil
<u>Social</u>	Ability to efficiently process transactions on behalf of the community	Nil
<u>Economic</u>	Nil	Nil

Financial implications for the Council

There are no financial implications in the adopting of the Power of Attorney.

Legal and risk management issues for the Council

There are no legal and risk management implications in the adopting of the Power of Attorney.

External consultation

Consultation is not required for the adoption of the Power of Attorney.

Conclusion

That the Power of Attorney be adopted as attached and as per the recommendations of this report.

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Attachment

Attachment

General Power of Attorney

Part 1 – General

THIS POWER OF ATTORNEY is made on the day of 2009 by
BLUE MOUNTAINS CITY COUNCIL of 2 Civic Place, Katoomba in the State of New
South Wales (the “Council”).

1. The Council appoints:

- (a) **Adam David Searle** of 2 Civic Place, Katoomba in the State of New South
Wales (Mayor); and
- (b) **Philip Leonard Pinyon** of 2 Civic Place, Katoomba in the State of New South
Wales (General Manager); and
- (c) **Julie May Bargenquast** of 2 Civic Place, Katoomba in the State of New
South Wales (Public Officer),

to be its attorneys. The Council’s attorneys may exercise the authority conferred on
them by Part 2 of the *Powers of Attorney Act 2003* to do on the Council’s behalf
anything the Council may lawfully authorise an attorney to do. The authority of the
Council’s attorneys is subject to any additional details specified in Part 2 of this
document.

2. This power of attorney operates immediately.
3. The Council appoints each attorney jointly and severally.

Part 2 – Additional Powers and Restrictions

4. This power of attorney is subject to the following conditions and limitations:
 - (a) The attorneys are each appointed by the Council to act for the Council and in its name and as its act and deed to:
 - (i) execute and deliver any of the following documents:
 - (1) any “conveyance” (including a lease), as defined in s7 of the *Conveyancing Act 1919*;
 - (2) any “*dealing*” as defined in s3 of the *Real Property Act 1900*;
 - (3) any instrument creating, varying, terminating, extinguishing or otherwise affecting any right, obligation or interest of the Council;
 - (4) any contracts for the performance, provision or receipt of works, services and/or goods;
 - (5) any agreement with the New South Wales Government or the Australian Government, or with any public authority or any other local government authority;
 - (6) any other documents considered by any of the attorneys to be necessary or desirable in connection with the documents referred in sub-paragraphs (1), (2), (3), (4) or (5); and

- (7) any documents amending, varying or changing any of the documents referred to in sub-paragraphs (1), (2), (3), (4), (5) or (6) as any of the attorneys approve (that approval being evidenced by the attorneys’ execution of the document concerned); and
 - (ii) do all such things as the attorneys consider necessary or desirable for the effectual exercise of the power granted by this power of attorney or otherwise for the purposes of any of the transactions contemplated by any of the documents referred to in paragraph 4.(a)(i).
 - (b) The powers set out in paragraph 4.(a) may only be exercised by the attorneys or any of them:
 - (i) to give effect to a resolution of the Council; or
 - (ii) in the course of performing any function delegated by the Council in accordance with the provisions of the *Local Government Act 1993*.
- 5.** The Council agrees to ratify and confirm any acts done by the attorneys or any of them in the exercise of the powers conferred by this power of attorney including whatever the attorneys do between the revocation of this power of attorney and the time of such revocation becoming known to the attorneys.
- 6.** The Council indemnifies and agrees to keep indemnified the attorneys and each of them against any liability, loss or expense (of whatever nature) arising from the exercise of the powers conferred upon them by and under this power of attorney.

Whereupon the Common Seal of **Blue**)

Mountains City Council was hereunto)
affixed by the authority of the Council)
in accordance with a resolution passed at)
the ordinary meeting of the Council held)
on 2009) Mayor
