

# CODE OF MEETING PRACTICE



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**ADOPTED** BY THE COUNCIL ON:

**[Awaiting Resolution]**

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## Blue Mountains 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, the Local Government Amendment (Discipline) Act 2005, and subsequent amendments.

The object of this Code is to provide for the convening and conduct of meetings of Blue Mountains City Council and of Committees of the Council. The provisions of this Code are substantially based on the provisions of the Act, the Local Government (General) Regulation 2005, the Local Government Amendment (Discipline) Act 2005, subsequent amendments and the Council's policy decisions.

The Council and all Committees of the 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, Blue Mountains 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; and
4. The Council meetings should comply with the basic organisational principle of Councillors not involving themselves in the day-to-day administration of Council matters. Meetings should address matters of policy, direction, resource allocation, statutory decisions and other appropriate Council issues.

### PRELIMINARY

#### 1. Citation

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

#### 2. Commencement

This Code was last amended 9 October 2007.

#### 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 the Council - means the person presiding at the meeting as provided by section 369 of the Act (see Clause 3.1 of this Code); and

(b) in relation to a meeting of a Committee of the Council - means the person presiding at the meeting as provided by Clause 267 of the Local Government (General) Regulation 2005 (see Clause 6.2.1 of this Code);

**Committee**, in relation to the Council, means a Committee appointed or elected by the Council in accordance with Clause 260 of the Local Government (General) Regulation 2005 (see Clause 6.1 of this Code) or the 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 the Council and includes the Mayor;

**General Manager**, is the General Manager of the Council;

**Record**, means a document (including any written or printed material, and any material stored electronically) 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 the Council and, in particular, includes the minutes of meetings of the Council or of a Committee of the Council;

**the Act**, means the Local Government Act 1993, including all subsequent amendments; and

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

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## PART 1 - INVOLVING THE PUBLIC IN THE COUNCIL MEETINGS

### 1.1 PUBLIC ATTENDANCE AT MEETINGS

Everyone is entitled to attend meetings of the Council and those of its Committees of which all the members are Councillors, except in the limited circumstances set out in 1.8 below. The Council has a responsibility to ensure that such meetings are open to the public.

### 1.2 TYPES OF MEETINGS

There are two types of meetings:

- **Ordinary Meetings**, as the name implies, are the standard, regular meetings of the Council. These are scheduled in advance. The Council generally meets **on a three weekly meeting cycle**. The Meetings commence at 7.30 pm. The Council can, by resolution, extend past this time. This schedule may be varied from time to time.
- **Extraordinary Meetings** are held irregularly, generally in response to a particular event or emergency. They may only occur through specific request as permitted under 2.4 of this Code.

### 1.3 PUBLIC NOTICE OF MEETINGS

The Council gives public notice of all scheduled Council meetings in the Blue Mountains Gazette newspaper each Wednesday. This information is also available on the Council's website at address [www.bmcc.nsw.gov.au](http://www.bmcc.nsw.gov.au).

### 1.4 AVAILABILITY OF BUSINESS PAPERS

At each meeting of the Council, and each Committee of which all the members are Councillors, the Council will have available for the public copies (for inspection or taking away by any person) of the agenda and associated business papers (such as correspondence and reports) for the meeting. This will not apply to business papers for a matter that, in the opinion of the General Manager, is likely to be considered when the meeting is closed to the public.

Copies will also be available to the public at the Council offices and libraries as close as possible to the time they are available to Councillors. (See Clause 2.1 of the Code). They will also be accessible from the Council website on the Internet as from midnight on the Tuesday night prior to a meeting. (The website is [www.bmcc.nsw.gov.au](http://www.bmcc.nsw.gov.au)).

Copies are available free of charge at the Council offices. They may be delivered by courier or by mail for an annual fee.

### 1.5 ACCESS TO CORRESPONDENCE AND REPORTS

The 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.

This does not apply if the correspondence or reports relate to a matter that was received or discussed; or were laid on the table at, or submitted to, a meeting which was closed to the public, in accordance with Section 10A of the Act. Nor does it apply if the Council or Committee resolves at the meeting, when open to the public, that the correspondence and reports are to be treated as confidential because they relate to a matter specified in Section 10(2) of the Act. (See Clause 1.8 of the Code).

## 1.6 PARTICIPATION IN THE COUNCIL MEETINGS

### 1.6.1 Public Access

Members of the public are welcome to address the Council on any items of business in the Business Paper other than Minutes by the Mayor, responses to Questions without Notice, Notices of Motion (including Rescission Motions), the Précis of Correspondence and Matters of Urgency. A “Guide to Public Speakers” will be [available](#) at each meeting.

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Members of the public may make representation to, or at a meeting, before any part of the meeting is closed to the public as to whether that part of the meeting should be closed. The representations may be made by addressing the Council at the meeting ([see also Section 1.8.1 of this Code](#)).

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Members of the public must remain behind the roped barrier in front of the Councillors seating at all times including [when speaking to a Councillor](#). [No communication with the Councillors is permitted once the meeting commences](#).

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[Those wishing to address the Council must register with the Council Administration Officer present in the Council Chamber prior to the commencement of the Meeting. Speakers may register from 6:45 to 7:20 pm.](#)

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[Registrations may be also be made prior to the Meeting by completing the on-line Registration form and emailing or faxing the form to Executive Services staff.](#)

The following details are to be completed on the Registration form:

- name;
- address;
- organisation (if applicable);
- item on business paper to be addressed;
- a clear statement as to whether the person is for (supports) or against (opposes) the recommendation or proposition as printed in the business paper;
- interest of speaker (as affected neighbour or as applicant or applicant's spokesperson, or as interested citizen).

[If, due to exceptional circumstances, a member of the public is unable to complete a registration form prior to the commencement of the meeting, that person must speak to the Council Administration Officer and if the Mayor will determine if the speaker can address the item.](#)

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Members of the public will not be able to address the Council on a particular item after the business on that item has been completed

Only persons who have completed the [Registration](#) form and clearly indicated their intention to speak for or against a recommendation or proposition in the business paper may address the Council. Speakers who do not speak in accordance with their stated intention shall forfeit the right to continue speaking.

The Council encourages members of the public to present their views to meetings in order that the Council deliberations may be better informed. An opportunity to speak will be afforded to persons representing a diverse range of views and opinions in preference to hearing the same view stated repeatedly or sequentially. Organisations may be restricted in number of speakers.

### **1.6.2 Protocol for public speakers**

Up to 3 speakers for each opposing viewpoint will be permitted to address the Council. On development applications, the applicant (or a spokesperson) will be permitted a final 3 minute address. In selecting other speakers, preference will be given to neighbours who would be affected by the proposal, whether favourably or unfavourably.

If more than 3 persons wish to speak on each of the differing views on an issue, they register through lodging a completed form with the Council staff. The Mayor or Chairperson will [determine](#) the number of speakers to be heard [and may on occasions put a procedural resolution to the Council to increase the number of speakers.](#)

If the number of persons requesting to speak exceeds the number the Council has nominated, the Mayor shall invite persons to voluntarily withdraw, and if necessary, the Council staff will conduct a draw to determine the speakers. The draw provides that, on development applications, the speakers shall include the applicant (or a spokesperson) as above, and at least one neighbour for and one against the recommendation. Where necessary, a separate ballot will be conducted to determine the two neighbour speakers.

Public speakers are restricted to three (3) minutes. No extensions of time will be granted.

All speakers must state their name and address, organisation (if applicable), and interest in the issue before speaking.

Presentations and questions should be made or put courteously and concisely, and without hectoring. Councillors will observe the same courtesies while members of the public are addressing the Council.

Personal allegations against Councillors and/or staff may not be made. A member of the public making such allegations forfeits forthwith the opportunity to address the Council. The Mayor shall insist that an offending speaker cease speaking.

Councillors may ask questions of speakers at the conclusion of their address.

Those in the public gallery shall not ask questions of members of the public addressing the Council or otherwise canvass issues in a public way.

Special arrangements apply when members of the public wish to make representations to the Council on the question of whether or not part of the meeting should be closed to the public. Where an agenda includes notice that an item of business is likely to be considered in closed session, the following procedure will be followed:

- (a) any person may make written representations to the General Manager up to the time of commencement of the meeting;
- (b) any person who wishes to make verbal representations at the meeting must follow the procedures set out above for registering with the Administration Officer and for addressing the Council;
- (c) after a motion proposing to close part of the meeting to the public has been moved and seconded, the Chairperson will ask the General Manager to read out any written representations;
- (d) the Chairperson will then invite members of the public to address the Council. After three speakers have spoken in favour of the proposal and three against, the Chairperson will ask the Council to indicate by a show of hands whether the majority of Councillors present are satisfied that the range of views has been sufficiently canvassed. If the vote is in the affirmative, the motion to close part of the meeting will be put to the vote; and

- (e) in the event that the Council disagrees with the recommendation of the General Manager to discuss an item in closed session and no motion to that effect is forthcoming, the Chairperson will announce that representations from the public will not be needed.

If it becomes apparent during a meeting that a matter should be considered in a closed part of the meeting, the Council can consider such a motion notwithstanding that notice has not been given in the agenda. In such cases, time will permit neither the registration of speakers nor written representations. However, the Chairperson will invite members of the public to address the Council and the procedure set out in (d) above will be followed.

## **1.7 SOUND RECORDINGS BY THE PUBLIC**

Unless the Council otherwise resolves, no recording equipment, excepting the official recording system, will be permitted at meetings of the Council or its Committees. This prohibition applies to tape recorders, video cameras and any electronic devices including mobile phones, [or notebooks](#), capable of recording speech.

A person may be expelled from a meeting for using a recording device in contravention of the above. (See Clause 3.10).

### **1.7.1 Mobile Phones**

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

### **1.7.2 Photography in the Council Chambers**

Photographers are permitted to take photos in the Council Chambers by prior approval, on the condition that the press respects people's right not to be photographed if they do not wish to be.

## **1.8 MEETINGS CLOSED TO PUBLIC**

### **1.8.1 General**

Section 10A of the Local Government Act, 1993 provides that the Council or a Committee may close part of a meeting to the public. The Act states:

"10A(1) A Council, or a Committee of the Council of which all members are Councillors, may close to the public so much of its meeting as comprises:

- (a) the discussion of any of the matters listed in subclause (2); or
- (b) the receipt or discussion of any of the information so listed.

(2) The matters and information are the following:

- (a) personnel matters concerning particular individuals;
- (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, the Council staff or the 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.

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- (3) The 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.”

The grounds on which part of a meeting is closed to the public will be specified in the decision to close the meeting and recorded in full in the minutes of the meeting. The grounds will specify:

- (a) the relevant provision of Section 10A(2) which applies;
- (b) the matter that is to be discussed during the closed part of the meeting;
- (c) the reasons why that part of the meeting is being closed to the public indicating whether it is being closed for preservation of confidentiality, privilege or security (this does not apply to personnel matters concerning particular individuals, or the personal hardship of a resident or ratepayer or a trade secret); and
- (d) an explanation of the way in which discussion of the matter in open meeting would, on balance, be contrary to the public interest.

For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, the Council will regard the following as irrelevant:

- (a) a person may misinterpret or misunderstand the discussion; or
- (b) the discussion could cause embarrassment to the Council, a Committee, Councillors or staff or cause a loss of confidence in the Council or a Committee.

When considering, at a meeting closed to the public, a motion to close another part of the meeting as provided under Section 10A(3) of the Local Government Act, the Council will not consider any details of the matter concerned other than whether or not it constitutes one of the grounds for closure specified in Section 10A(2).

The Council may close part of a meeting to the public notwithstanding that notice has not been given in the agenda only in the following circumstances:-

- (a) It becomes apparent that the matter is one of those specified in Section 10A(2) as grounds for closure; and
- (b) The Council considers representations by the public as to whether or not the meeting should be closed; and
- (c) The Council resolves that discussion on the matter should not be deferred because of its urgency and should take place while the meeting is closed to the public.

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In accordance with Section 10B of the Local Government Act, a meeting will remain closed only so long as necessary to preserve the relevant confidentiality, privilege or security of the matter concerned, but only for such portion of the debate on an item as is necessary to preserve confidentiality, privilege or security. In all cases other than personnel matters concerning particular individuals, the personal hardship of residents or ratepayers, or a trade secret, the meeting will not remain closed unless the Council is satisfied that discussion of a matter in open meeting would, on balance, be contrary to the public interest.

A member of the public is not entitled to be present at part of a meeting which has been closed in accordance with Section 10A of the Act. A resolution passed at a closed meeting or part of a meeting must be made public by the Chairperson as soon as practicable after the meeting or part of the meeting has ended.

**1.8.2 Representations by the public on closure of part of meeting**

In accordance with clause 252 of the Regulation, the Council is required to give members of the public the opportunity to make representations as to why part of a meeting should be closed.

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There are two mechanisms for achieving such representation:

- a) By registering to speak to the Business Paper calling for the item to be heard in Confidential Session (see Section 1.6); OR
- b) Following a resolution of the Council to close the meeting to the public, the Chairperson may call for members of the public to make representations as to why the meeting should be closed.

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In either of these circumstances the representation by a member of the public will be limited to 3 minutes.

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## PART 2 - CALLING THE COUNCIL MEETINGS

### 2.1 NOTICES OF MEETINGS, AGENDAS AND BUSINESS PAPERS

At least 3 days before each meeting of the Council the General Manager will have delivered to each Councillor a notice specifying the type of meeting and the time, place and date of the meeting and an agenda and associated business papers (such as correspondence and reports).

The notice, agenda and business papers will be issued by authority of the General Manager and will be delivered to each Councillor's residential address or such other address as a Councillor may specify in writing for the giving of such notices.

The agenda and business papers will set out the business proposed to be transacted at the meeting and will include:

- (a) all matters to be dealt with arising out of the proceedings of former meetings of the Council; and
- (b) if the Mayor is the chairperson - any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting; and
- (c) subject to Clause 241 of the Regulation, any business of which due notice has been given. (See Clause 2.2 of the Code).

In regard to (c) above, the General Manager is required by Clause 242 of the Regulation to exclude from 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 or its implementation would be unlawful.

Such exclusions will be reported by the General Manager to the next meeting without giving details of the item of business.

Business cannot be transacted at a meeting unless notice has been given in accordance with the above except in the circumstances set out in Clause 3.8 of this Code.

### 2.2 NOTICE OF BUSINESS BY COUNCILLORS

**2.2.1** Business submitted by a Councillor will not be included in the business paper for an ordinary meeting unless a notice in writing, signed by the Councillor, or submitted by email, is given to the General Manager before 12 noon on the Monday a week before the meeting. This time is fixed as required by Clause 241 of the Regulation. The only exception to this requirement is that the matter is, in the opinion of the General Manager, one of urgency.

#### **2.2.2 Types of business submitted by Councillors**

**Councillors have three mechanisms for placing items in the Business Paper:**

##### **1) Mayoral Minute (see Clause 3.7)**

**Councillors may request the Mayor to submit a Mayoral Minute.**

##### **2) Councillor Report**

**A councillor may submit a report to the Council. Such reports may relate to:**

- **their representation of the Council on official business;**
- **a trip or visit undertaken on behalf of the Council;**
- **representations made to them by members of the community or others.**

##### **3) Notice of Motion**

- Councillors may put forward Notices of Motion for discussion in the Council on issues which commit the Council to expenditure;

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- change an existing policy;
- require information to be provided to all Councillors;
- create new policy; and
- create a precedent.

The Notice of Motion must be put in a form which calls for a report to the Council. That report on the issues raised in the Notices of Motion will then come forward to the first possible subsequent meeting as an Officer's report.

The Council officers will **not** automatically prepare such a report on submission of the Notice of Motion by a Councillor.

The only exception to the requirement for calling for a report relates to the submission of a Notice of Motion requesting that the Council write a letter to another agency, or external body.

In the Case of a Notice of Motion to alter or rescind a resolution which has been passed less than 3 months previously must be signed by three Councillors who must all either sign the same form of notice on the same piece of paper, or submit separate emails which clearly indicate their intention and are subsequently signed at the earliest time and prior to the Council Meeting at which the motion will be debated. The same requirements apply to a Notice of Motion which has the same effect as a motion which has been negated by the Council less than 3 months previously. (See also Clause 4.3 of this Code.)

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### 2.3 CONFIDENTIAL BUSINESS PAPER

The General Manager will include in a confidential business paper business which is of the kind referred to in Section 10A(2) of the Local Government Act, 1993 and which could therefore be considered by the Council with the exclusion of the public.

Without giving details of the item concerned, the ordinary business paper will refer to any business included in the confidential business paper. The agenda for the meeting will indicate that, in the opinion of the General Manager, consideration of the matter is likely to take place when the meeting is closed to the public.

The Confidential Business Paper will be circulated in a secure manner to all closed Council Meeting participants.

### 2.4 SPECIAL PROVISIONS FOR EXTRAORDINARY MEETINGS

Extraordinary meetings may be called in two ways:

- in writing: a request submitted in writing by at least 2 Councillors to the Mayor. One of the signatories may be the Mayor; or
- by the Mayor in matters of urgency or emergency. The Mayor will determine when a situation is urgent or an emergency.

If called in an emergency, notice of less than 3 days may be given.

The request for an extraordinary meeting must clearly state the business proposed to be transacted and any motion proposed to be moved.

The business paper for an extraordinary meeting must only include the matters stated in the notice of the meeting. However, matters not on the business paper may be considered at the meeting in the circumstances set out in Clause 3.8 of the Code.

The extraordinary meeting duly requested will be held as soon as practicable, but in any event within 14 days after the written request is received.

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## PART 3 - CONDUCTING THE COUNCIL MEETINGS

### 3.1 POWERS AND DUTIES OF CHAIRPERSON

#### 3.1.1 Mayor to Preside

The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor presides at meetings of the Council.

#### 3.1.2 Election of a Chairperson

If the Mayor and the Deputy Mayor are absent, a Councillor elected to chair the meeting by the Councillors present presides at the meeting of the Council. The election of that Councillor will be the first business of the meeting and will be conducted in accordance with Clause 9 of the Regulation.

#### 3.1.3 Precedence of Chairperson

The Chairperson has precedence, and will be heard without interruption. When the Chairperson rises during a meeting, any Councillor standing must resume his or her seat, and any Councillor speaking must be silent to enable the Chairperson to be heard.

#### 3.1.4 Casting Vote

In addition to a deliberative vote as a Councillor, the Chairperson may exercise a second or casting vote in the event of there being an equality of votes.

It is a matter for the Chairperson as to how they will vote, after taking into consideration all relevant information. They do not need to vote the same way on their deliberative and casting vote. They may also choose not to exercise a casting vote. In this case, in accordance with Clause 371 of the Act, a decision of the Council is not made, so the motion is recorded as "not carried". In the event of an amendment being "not carried" in such circumstances, the consideration of the Council will then be given to the motion.

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#### 3.1.5 Duties

The duties or functions of the Chairperson include the following:

- (a) to receive and put to the meeting any lawful motion that is brought before the meeting (Clause 238 (1) Regulation);
- (b) to rule out of order any motion that is unlawful or the implementation of which would be unlawful (Clause 238(1) & (2) Regulation);
- (c) in the absence of a Councillor who has placed a notice of motion on the business paper for a meeting of the Council, and where no other Councillor has moved the motion at the meeting, the Chairperson may defer the motion until the next meeting of the Council at which the motion can be considered (Clause 245 Regulation);
- (d) where a Councillor moves a motion "that the question be now put", the Chairperson is required to put that motion to the vote in accordance with Clause 251(4) of the Regulation and Clause 3.9.7 of this Code;
- (e) to decide the result of a vote on a motion (Clause 251(3) Regulation);
- (f) to prevent any discussion on any reply or refusal to reply to a question put by a Councillor to another Councillor or a Council employee (Clause 249(4) Regulation);
- (g) to maintain order at a meeting, in accordance with Division 4 of the Regulation and Clauses 3.9.10, 3.9.11 and 3.10 of the Code, including:
  - (i) calling any Councillor to order whenever, in the opinion of the Chairperson, it is necessary to do so;
  - (ii) ruling on a question of order; (iii) adjourning a meeting for a period of not more than 15 minutes and leaving the chair where disorder occurs at a meeting of the Council;
- (h) to sign minutes of the preceding meeting once those minutes have been confirmed by the Council (Section 375(2) Act); and
- (i) to make public a resolution passed at a closed meeting (Clause 253 Regulation).

### 3.2 PARTICIPATION BY COUNCILLORS

Clause 235 of the Regulation provides that a Councillor cannot participate in a meeting of the Council unless personally present at the meeting. In order to be present, the Councillor must be within the Council Chamber (meeting room).

### 3.3 ORDER OF BUSINESS

The general order of business for each of the ordinary meetings of the Blue Mountains City Council will be:

#### “GENERAL ORDER OF BUSINESS”

1. Reflection
2. Acknowledgement of Country (see clause 3.5)
3. Apologies and Leave of Absence
4. Confirmation of Minutes
5. Declarations of Interest
6. Minute by Mayor
7. Acknowledgement of Official Visitors to the Council
8. Reports by Councillors/Policy Groups
9. Notice of Rescission
10. Report by General Manager
11. Officers' Reports
  - Providing Good Government
  - Looking After Environment
  - Looking After People
  - Using Land for Living
  - Moving Around
  - Working and Learning
12. Notice of Motion
13. Questions With Notice
14. Précis of Selected Correspondence
15. Responses to Questions Without Notice
16. Close Meeting,

provided that the Council may by resolution alter the order in which business may be dealt with at any meeting. A motion to alter the order of business may be moved without notice, and only the mover of the motion may speak to it before it is put.

#### 3.3.1 Dealing with items *En Globo*

To enable the council to expedite its business, Council by resolution may deal with its Business *En Globo* via the following procedure:

- 3.3.1(i) The Council meeting commences and follows the first six items under the usual order of business;
- 3.3.1(ii) After presentations are complete, the Mayor then reads out which items in the rest of the agenda members of the public want to speak on;
- 3.3.1(iii) The Mayor then asks Councillors to nominate any exclusions from the agenda;
- 3.3.1(iv) A Councillor then moves a procedural motion that the Standing Orders be varied for the night's meeting as set out here under:
  - (1) Items where no public speakers or Councillors wish to speak;
  - (2) Items where public speakers have nominated to speak;
  - (3) Items where Councillors wish to speak other than (2);
  - (4) Confidential items;
  - (5) Matter of Urgency (if any);
  - (6) Closure of Meeting
- 3.3.1(v) A Councillor then moves that Items (list items) not excluded be adopted as recommended in the business paper.

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**NOTE:** These items will be adopted unanimously other than where any Councillor, at the time of voting, clearly indicates that he/she wants his/her name counted in the vote against a particular item. If a Councillor has declared an interest in any item which is to be adopted unanimously, the Councillor should not vote and must leave the Chamber in order to meet statutory requirements.

3.3.1(vi) The Council then adopts the revised order of business as outlined in 3.3.1(iv) 1-6.

### **3.4 QUORUM**

The quorum for a meeting of the Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office. A quorum of seven applies to the Council meetings when all twelve Councillors are in office.

A meeting of the Council must be adjourned if a quorum is not present within half an hour after the designated starting time, or at any time during the meeting. The meeting must be adjourned to a time, date and place fixed by the Chairperson, or in his absence by the majority of Councillors present or, failing that, by the General Manager. The time and date may be some hour later on the same day or some future day.

### **3.5 PRAYER/REFLECTION**

The form of the Prayer and the Reflection are:

#### **Prayer:**

Chairperson: "Dear God,  
We sincerely seek your blessing on this Council so that its deliberations may advance Your Glory and the true welfare of the people of the City of Blue Mountains."

#### **Reflection:**

Chairperson: "May wisdom guide the deliberations of this meeting so that we may advance the true welfare of the people of the City of Blue Mountains."

The Chairperson will also acknowledge the traditional owners of the Blue Mountains area, the Darug and Gundungurra peoples.

Following each Ordinary Election (i.e. each four years) the incoming Councillors shall determine at its first meeting which alternative is to be used over the term of the Council. Once determined, the issue may not be revisited over that period.

At the Chairperson's sole discretion, the Chairperson may read any additional prayer or reflection suggested by a Councillor or member of the public.

### **3.6 CONFIRMATION OF MINUTES**

The first business at every ordinary meeting of the Council (after apologies and the election of a Chairperson where so necessary) will be the confirmation of the correctness of the minutes of every preceding meeting, ordinary or special, not previously confirmed. (See also Clause 5.2 of the Code).

When confirmation of the minutes is being considered, the only question that can arise is whether or not they faithfully record the proceedings at the meeting to which they refer.

### **3.7 MAYORAL MINUTES**

If the Mayor is the Chairperson, the Mayor is entitled, in accordance with Clause 243 of the Regulation, to put to a meeting, with or without notice, a signed minute on matters within the Council's knowledge or jurisdiction.

Such minutes take precedence over all other business other than confirmation of minutes of previous meetings. The Mayor can move adoption of the minute without a seconder. (See also Clause 3.9.12).

### **3.8 BUSINESS NOT REQUIRING NOTICE (MATTER OF URGENCY)**

Business of which notice has not been given to Councillors may be transacted at an ordinary or extraordinary meeting only in the following circumstances:

- (a) the business is already before, or directly relates to, a matter that is already before the Council at the meeting;
- (b) the business is the election of a Chairperson to preside at the meeting;
- (c) the business is a matter or topic put to the meeting in a Mayoral Minute;
- (d) the business is a motion for the adoption of recommendations of a Committee of the Council; and
- (e) a motion, which can be moved without notice, is passed to have the business transacted at the meeting, and the business is ruled by the Chairperson to be of great urgency.

When ruling on whether a matter is of great urgency, the Chairperson will consider:

- the principal requirement that the meeting deal with matters before it on
  - the business paper for which notice has been given; and
  - any potential costs which will be incurred, or irrevocable actions which might occur if the matter is considered at the next ordinary meeting of the Council rather than forthwith;
- (f) at an extraordinary meeting, a motion in accordance with (e) above can only be moved after the business notified in the business paper for the extraordinary meeting has been disposed of.

### **3.9 MAKING DECISIONS - RULES OF DEBATE**

#### **3.9.1 Standing to Address the Council**

Any Councillor or member of the public (unless physically disabled or elderly) must stand to address the Council. This does not apply to the Mayor or Council officers and may not apply during Committee meetings.

[A Councillor who is unable to stand to address the Council due to a physical impairment or ill-health should notify the Chairperson prior to the meeting commencing.](#)

#### **3.9.2 Purposeful Debate**

Effective and timely debate is not served by multiple repetition of previously stated points. When speaking on motions and amendments, Councillors should:

- indicate what they are speaking to (i.e. motion or amendment);
- keep their contribution to that (i.e. if speaking to the amendment, to not canvass the main issue);
- not introduce extraneous matters; and
- speak only if they are introducing new and pertinent material.

To ensure that the most effective use is made of the limited time available for meetings, the Chairperson may request a Councillor to speak to the issue or avoid repetition.

Having drawn the Councillor's attention to this, and if the Councillor persists with the practice, the Chairperson may put the question to the Council: "that the Councillor resume his or her seat".

If a majority of those present support the motion, the Councillor must cease speaking and immediately resume his or her seat.

### **3.9.3 Motions**

All motions and amendments which differ from motions and recommendations as printed in the business paper shall be put in writing.

Motions shall not be debated until seconded except for the following motions which do not require a seconder:

- (a) a motion moved by the Chairperson for adoption of the Mayoral Minute; and
- (b) a motion moved by a Councillor that a motion or amendment "be now put".

If a motion lapses for want of a seconder it shall be automatically excluded from consideration. However, nothing shall prevent such a motion being brought forward at a future meeting by a notice of motion.

A motion which is vague or ambiguous shall be rejected by the Chairperson.

In the absence of a Councillor who has placed a notice of motion on the business paper, the motion may be moved by any other Councillor. If the motion is not moved, the Chairperson may defer the notice of motion until the next meeting at which it can be considered.

A motion, including a notice of motion, or an amendment before the meeting for consideration, may only be altered or withdrawn at the request of the mover with the consent of the majority of Councillors present at the meeting. Consent may be obtained by the Chairperson by asking for a show of hands. A motion shall not be withdrawn if it has been amended, or while an amendment is under discussion.

A notice of motion, other than a notice of rescission, may be subject to amendment in accordance with Clause 3.9.4 of the Code, provided the form of the resulting motion is within the scope of the notice of motion.

If a Councillor who has placed a notice of motion on the business paper does not wish to proceed with it, the motion may be moved by any other Councillor.

### **3.9.4 Amendments**

An amendment shall be out of order and rejected by the Chairperson if it:

- (a) substantially alters the subject of the motion; or
- (b) amounts to a direct negative; or
- (c) has the effect of reversing an amendment already adopted; or
- (d) is substantially the same as an amendment previously rejected.

An amendment to defer a matter is an acceptable form of amendment.

See 3.9.3 above for dealing with withdrawal of amendments.

Only one motion and one proposed amendment shall be before the Council at any one time.

If an amendment is carried, the effect is that the original motion is amended accordingly. The motion in its amended form becomes the motion before the meeting. Unless there is a further amendment, the motion in its amended form shall then be put to the vote without further debate.

If an amendment has been rejected then a further amendment may be moved and so on.

Before an amendment is put to the vote, a Councillor may foreshadow the intention to move a further amendment, and shall state the form of the foreshadowed amendment. No discussion may take place on a foreshadowed amendment until the amendment has been dealt with. The amendment shall be put to the vote before the foreshadowed amendment is moved, because only one motion and one amendment can be before the Council at any one time.

After the amendment has been dealt with, the foreshadowed amendment may be formally moved and seconded.

### **3.9.5 Limit on Speeches**

The mover of an original motion shall have the right of general reply in accordance with Clause 3.9.6 and 3.9.7 below.

The mover of an original motion shall also have the right to speak once on any amendment to the motion.

All other Councillors shall have the right to speak once on the original motion, and once on each amendment. Exception may be made to this rule where a Councillor claims to be misrepresented or misunderstood.

Speeches shall be limited to five minutes.

### **3.9.6 Exercising the Right of Reply**

The right of reply shall be exercised in accordance with Clause 250 of the Regulation. This provides that a Councillor who, during a debate at a meeting of the Council, moves an original motion, has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any amendment.

The right of reply shall be exercised in accordance with the following:

- (a) where there is no amendment, the right of reply may be taken at the conclusion of debate on the original motion;
- (b) where there is one amendment, the right of reply may be taken at the conclusion of the debate on the amendment;
- (c) where there is more than one amendment, the right of reply may be taken at the conclusion of the debate on any amendment as the mover may elect;
- (d) where a motion of closure has been carried in accordance with Clause 3.9.7 of this Code, the right of reply may be taken before the vote is taken on the original motion or amendment before the meeting;
- (e) there shall be no right of reply to a motion of dissent; and
- (f) no new matter shall be introduced in the right of reply.

The mover of the original motion must be given an opportunity to exercise the right of reply at the conclusion of the debate on any amendment. When the Chairperson is

satisfied that no more speeches or amendments are forthcoming in respect of an item under consideration, the mover of the original motion must be called upon to reply if that right has not already been exercised earlier in the debate. Exercising the right of reply closes the debate.

### **3.9.7 Closing Debate (Question be Put)**

Any Councillor may move “that the question be now put” if:

- the mover of the motion or amendment has spoken in favour of it, and
- no Councillor wishes to speak against it; or
- at least 2 Councillors have spoken for each side of the debate.

The question will be put without debate and without being seconded.

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.

If a motion that the original motion or an amendment be now put is rejected, the Chairperson must allow the debate on the original motion or the amendment to be resumed.

### **3.9.8 Time Limit on Debate**

Debate on any item of business on the agenda or transacted without notice under Clause 3.8 of the Code may not continue for more than **45 minutes**. At the expiration of this time from the commencement of the debate, the Chairperson will put the question, irrespective as to whether a Councillor is speaking at the time, after permitting the mover of the motion five minutes right of reply.

The question will be put in the following form:

Chairperson: “The time for debate has expired. Under the Code of Meeting Practice of this Council, I must now put the question. The mover of the motion has five minutes right of reply.”

There will be rare occasions when an issue before the Council is one of great moment when limiting debate appears inappropriate. In these cases a Councillor must move, prior to the commencement of the debate, that the time for debate be limited in this instance only to ‘x’ minutes.

### **3.9.9 Voting by Councillors**

Each Councillor is entitled to one vote. Voting shall be by show of hands.

The person presiding at a meeting of the Council has, in the event of an equality of votes, a second or casting vote.

A Councillor who is present at a meeting but who fails to vote, is taken to have voted against the motion (unless he or she has declared a non-pecuniary interest in the subject matter and has chosen to remain in the Chamber).

The Chairperson shall declare the result of the vote. The decision of the Chairperson is final unless at least two Councillors challenge the decision by rising and demanding a division. The division shall be taken by asking Councillors to vote by standing instead of by a show of hands.

The names of Councillors shall be recorded as having voted for or against a motion or amendment, whether by show of hands or by division. Those Councillors voting against a motion shall be taken as having cast a dissenting vote in terms of Clause 251(4) of the Regulation.

### **3.9.10 Taking Points of Order**

A point of order is taken when a Councillor officially draws the attention of the Chairperson to either:

- (a) an alleged irregularity in the proceedings which the Councillor considers places another Councillor out of order; and
- (b) an alleged act which the Councillor considers is an act of disorder.

(See Clause 3.10 of this Code for Dealing with Disorder).

A Councillor who wishes to take a point of order shall rise and state: "I rise to take a point of order", and then state the point of order. The point of order must be taken as soon as the alleged irregularity occurs.

A point of order takes precedence over all other business. The Chairperson must rule on a point of order immediately after it is raised but may, before giving a ruling, invite the opinion of the Council.

The Chairperson's ruling must be obeyed unless a motion is passed dissenting from the ruling.

### **3.9.11 Dissent from Chairperson's Ruling on Points of Order**

A Councillor who wishes to dissent from the ruling of the Chairperson on a point of order shall rise and state: "I rise to move a motion of dissent from the ruling of the Chairperson". The motion must be seconded. The Chairperson must suspend all other business until the motion of dissent is dealt with.

The Chairperson has a casting vote on a motion of dissent.

Only the mover of the motion of dissent and the Chairperson can speak to the motion. The mover has no right of general reply. If the motion is carried, the Chairperson must proceed with the business as though the ruling had not been given. Any motion rejected as out of order must be restored and considered.

### **3.9.12 What Constitutes a Decision of the Council**

A decision of the Council is a decision supported by a majority of the votes cast by Councillors present at the meeting.

If a recommendation made in a Mayoral Minute or a recommendation in a report by a Council employee is adopted by the Council, in full or in part, it is a resolution of the Council so far as adopted.

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

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

### **3.10 DEALING WITH DISORDER**

The Chairperson may call any Councillor to order if the Chairperson considers it necessary to do so. An act of disorder is committed if, at a meeting of the Council or a Committee of the Council, a Councillor does one of the following:

- (a) contravenes the Act or a Regulation, or assaults or threatens to assault another Councillor or person present at the meeting. The Chairperson, in those circumstances, may require the Councillor to withdraw and apologise without reservation; or
- (b) moves or attempts to move a motion or amendment that has an unlawful purpose or is outside the jurisdiction of the Council or the meeting, or addresses or attempts to address the meeting thereon. The Chairperson in such circumstances may require the Councillor to withdraw the motion/amendment, and if appropriate, to apologise without reservation; or
- (c) insults, makes personal reflections on, or imputes improper motives to any other Councillor, or says or does anything that is inconsistent with maintaining order at the meeting, or is likely to bring the Council or the Committee into contempt. The Chairperson may, in such circumstances, require a Councillor to retract and apologise without reservation.

A Councillor or a member of the public is not entitled to be present at the Council or Committee meeting if expelled from the meeting by a resolution of the meeting. A person may be expelled only on the grounds specified in or prescribed by the Regulation.

A Councillor may be expelled for not complying with the requirements of the Chairperson in regard to an act of disorder as above.

A member of the public may be expelled from a meeting for engaging in disorderly conduct, or for unauthorised use of a sound recording device. A member of the public is not entitled to be present at part of a meeting which has been closed to the public in accordance with Section 10A of the Act, and may be expelled from the meeting in accordance with Section 10A(2).

The Chairperson has the power to adjourn a meeting for a period of not more than 15 minutes and leave the chair if disorder occurs arising from the conduct of either a Councillor or a member of the public. On re-assembling, the Chairperson shall put to the Council without debate whether or not normal business is to proceed.

If a Councillor or a member of the public fails to leave the place of meeting immediately after a resolution expelling that person is passed, the General Manager shall request a police officer or other person authorised by the Council to remove the Councillor or member of the public, and if necessary, restrain that Councillor or person from re-entering that place. Only such force as is necessary shall be used.

When an act of disorder is committed in the meeting by a Councillor, the Councillor will be referred to the Conduct Committee for further investigation.

### **3.11 QUESTIONS**

At a meeting, questions may be put by a Councillor through the Chairperson to another Councillor, and through the General Manager to a member of staff, to clarify any matter before the meeting. A question must be put directly, succinctly, without argument, and without involving members of staff in the debate.

To allow proper attention to be given to Councillor's questions, and to preparing complete answers, all questions to other Councillors and staff shall be on notice. That is, the Councillor or staff member is entitled to be given reasonable notice of the question to enable reference to be made to other persons or to documents.

Every effort will be made to provide answers to the questions by the succeeding ordinary meeting.

The Chairperson must not permit discussion on any reply or refusal to reply by a Councillor or a member of staff in response to a question.

### **3.12 MOTIONS FOR ADJOURNMENT**

A motion to adjourn a meeting may be moved at any time, and must be put to the meeting without discussion. If the motion is negatived, a further motion to adjourn the meeting cannot be moved until a half-hour has elapsed.

Meetings shall be adjourned at 11.30 pm unless a resolution has been passed to continue the meeting.

If a meeting is adjourned, the Chairperson shall fix the time, date and place at which the adjourned meeting shall be held. The adjourned meeting will be deemed to be called upon the day when it was first convened, and fresh notices and business papers will not be necessary prerequisites to the holding of the meeting.

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## PART 4 - CHANGING PREVIOUS DECISIONS OF THE COUNCIL

### 4.1 EFFECT OF RESOLUTIONS

Once a motion has been passed, it becomes a resolution of the Council and the General Manager must ensure that it is implemented without undue delay as required by Section 335(1) of the Act.

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However, a resolution of the Council will not be implemented for a period of two days after the meeting at which a motion has been passed to allow time for rescission motions to be lodged. Thereafter action necessary to give effect to the Council decision must be commenced immediately to avoid excessive delay in implementation. (See also 4.3 below, "Limits on when/how often Decisions can be revisited").

Each Business Paper shall include a public notice of the Council policy that decisions of the Council will not be implemented until the third day after a meeting, or until after any notices of rescission have been dealt with. The Council decisions should not therefore be acted upon until officially communicated in writing.

There is no time limit on the lodgement of a Rescission Motion. Until a resolution of the Council is "carried into effect" - meaning that irrevocable steps have been taken to implement the resolution - a Rescission Motion may be lodged.

However in the case of approvals of building or development applications, once the applicant has been formally advised of the Council's decision the approval or consent may not, in the absence of clear statutory authority (s. 109 LGA 1993 or s.9 E&PA Act) be rescinded or altered.

### 4.2 RESCINDING OR CHANGING EARLIER RESOLUTIONS

Section 372(1) of the Act states, a resolution passed by a council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with regulations made under section 360 of the Act and, if applicable, this Code. See also Section 4.5 of this Code – Recommittal of Items.

A rescission motion is a notice of motion (see Clause 2.2 of this Code) with some particular additional requirements.

If notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with (Section 372(2) of the Act).

At any time after the meeting at which the resolution is carried, upon receipt of a duly signed motion to rescind the resolution, no further action to carry the resolution into effect may be taken until the motion of rescission or alteration has been dealt with at the next Council meeting.

A motion to 'rescind' or undo an earlier resolution can only be lost once before a three (3) month ban is placed on any Councillor 'bringing forward' another motion to the same effect (s.372(5) of the Act). 'Brought forward' means moved at a Council or Committee meeting. It is possible for notice of the motion to be given (but not for the motion to be moved) before the expiry of the three (3) month period referred to in section 372(5) of the Act when it is signed by three Councillors.

It is important to balance the General Manager's obligations under Section 335 of the Act and the requirement that the Council resolution not be implemented or carried into effect until the outcome of any rescission motion, moved in respect of the original decision, is known.

### 4.3 LIMITS ON WHEN/HOW OFTEN DECISIONS CAN BE REVISITED

When a motion is not passed, this will result in no decision being made or no opinion being expressed by the Council. It does not mean that the Council takes the opposite view or position to that expressed in the motion.

A second motion to the same effect as the original motion may, however, be debated (subject to due notice being given and the three Councillor signature requirements of section 372(4) of the Act being met). A third attempt cannot be made within three (3) months.

If it is proposed to move a further motion in the event that rescission motion is carried, the motion proposed to be moved must be foreshadowed at the same time as the rescission motion is lodged.

Therefore Councillors, on presenting a rescission motion, need to include the motion that will replace the potentially rescinded motion

Members of the public may not address the Council in debates on rescission motions.

A resolution cannot be rescinded or materially altered and a motion to do so must be rejected if the resolution:

- (a) has been implemented and it relates to a power that may be exercised only once; or
- (b) has been validly communicated to the person it affects.

### 4.4 IMPLIED RESCISSION

The Council may review, amend, or update its policies and codes from time to time without expressly rescinding earlier decisions taken more than 3 months before.

### 4.5 RECOMMITTAL OF ITEMS

Councillors should carefully consider their initial decision on an item as all resolutions of the Council are subject to the provisions of Section 372 of the Act as outlined in this section of the Code.

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An item may be recommitted for discussion or questions at the same Meeting in which the item was tabled as follows:

1. A motion is moved and carried that the council 'resolve into the committee of the whole to consider the matter of ...'.
2. In the committee of the whole the motion to rescind the resolution would be moved in the form of a recommendation to council.
3. If the motion is successful, the council meeting would then resume and a motion would be moved to adopt the recommendation of the committee of the whole. The minutes of the meeting would then record the report of the committee containing the recommendation.
4. If the motion is lost, there would be no recommendation to council and the council meeting would resume to deal with the remainder of its business.

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## **PART 5 - RECORDING PROCEEDINGS OF THE COUNCIL MEETINGS**

### **5.1 OBLIGATION TO KEEP MINUTES**

Full and accurate minutes must be kept of the proceedings of meetings of the Council. The General Manager must ensure that minutes of the Council and Committee meetings are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them. (See also Clause 5.5).

### **5.2 FORM OF THE MINUTES**

On each page of the minute book there shall be shown:

- (a) the type of meeting;
- (b) the date of the meeting;
- (c) the page number; and
- (d) an indication after the last line on each page that it is the end of the last minute on the page.

Immediately after the conclusion of the last minute of a meeting there shall be placed a certificate in or to the following effect:

“This is the final page of the minutes of the ordinary/special Committee meeting of the Blue Mountains City Council  
Confirmed ....., Date Confirmed.....”.

When the minutes are confirmed in accordance with Clause 3.6 of this Code, the above certificate must be signed by the Chairperson of the meeting at which they are confirmed.

The sets of the minutes of each meeting shall be kept in the minute book in chronological order. That is, the first page of the minutes of a meeting should follow the last page of the minutes of the previous meeting.

### **5.3 MATTERS TO BE INCLUDED**

The minutes of the Council meetings shall record:

- (a) details of each motion moved at the Council meeting and of any amendments moved to it;
- (b) the names of the mover and seconder of the motion or amendment;
- (c) whether the motion or amendment is passed or lost;
- (d) the grounds on which a meeting is closed to the public;
- (e) names of Councillors and members of staff in attendance;
- (f) declarations of interests by Councillors;
- (g) the names of Councillors voting for or against a motion and any amendments moved to it and an appropriate notation if a division is taken;
- (h) circumstances relating to the absence of a quorum at or arising during a meeting, and the reasons therefore, together with the names of the Councillors present;
- (i) the election of a Chairperson under Clause 3.1.2 of the Code;
- (j) rulings by the Chairperson on points of order and motions of dissent therefrom; and
- (k) incidents of disorder, calls to order and resolutions to expel Councillors or members of the public.

### **5.4 ALTERATION OF MINUTES**

When motions are amended in the process of confirming the minutes of a previous meeting, the amendment should, unless precluded by size or complexity, be put by the movers in the form the motion should read. For example:

“That the minutes of the meeting held on .....be confirmed subject to motion ..... being corrected to read:”.

In cases where the corrected motion cannot be put by the movers in its full form, the minutes shall include as a notation the full text of the motion as amended under a suitable preface. For example:

“As a result of the above amendment the minute now reads as follows:”.

After minutes have been confirmed, a motion shall not be altered in the minute book. If a motion is subsequently found to be incorrect, it shall be cross-referenced with the minutes of the meeting at which it is corrected.

#### **5.5 INSPECTION BY THE PUBLIC**

A person inspecting the minutes of meetings of the Council or a Committee in accordance with Section 12(1) of the Act shall be supervised by the General Manager or a person designated by the General Manager.

#### **5.6 OFFICIAL SOUND RECORDINGS**

Minutes of the Council and Committees of the Council shall be electronically sound recorded.

Copies of sound recordings of meetings other than meetings or parts of meetings closed to the public shall be made available to Councillors free of charge, and to other persons on payment of the fee fixed from time to time.

All Councillors shall be advised of all requests granted for provision of copies of sound recordings.

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## **PART 6 - COUNCIL COMMITTEES**

### **6.1 COMMITTEES OF THE WHOLE**

The Council may at any ordinary meeting or extraordinary meeting resolve to consider a matter in Committee of the Whole. This allows the Council to fully canvas the views of Councillors by having more flexible and less formal debate without the restrictions which apply at normal meetings to the number and duration of speeches.

#### **6.1.1 Proceedings**

All the provisions of the Code and the Regulation relating to meetings of the Council shall, so far as they are applicable, extend to and govern the proceedings of the Council when in Committee of the Whole. Provided that Clause 3.9.5 of the Code limiting the number and duration of speeches shall not apply to proceedings in Committee of the Whole.

#### **6.1.2 Recommendations**

After the conclusion of a meeting of a Committee of the Whole, the General Manager or a person designated by the General Manager shall report to the Council the recommendations of the Committee.

The recommendations shall be adopted when a motion for adoption has been made and passed by the Council.

#### **6.1.3 Recording Proceedings**

A report of proceedings in Committee of the Whole must be recorded in the Council minutes, in the same form required for the Council meetings.

### **6.2 OTHER COMMITTEES**

#### **6.2.1 Establishment and Functions**

The Council may, by resolution, establish such Committees as it considers necessary. Under the provisions of Section 360 of the Local Government Act, only Committees of which all members are Councillors are required to conduct their meetings in accordance with the relevant provisions of the Act, Regulation and Code. Otherwise, such Committees may regulate their own procedures.

Committees which contain members who are Non-Councillors may regulate their own procedures but must comply with any procedures laid down by the Council when the Committee is appointed.

When the Council appoints or elects a Committee it shall:

- (a) fix the number of Councillors to be members and appoint or elect these Councillors;
- (b) determine the quorum for a meeting of the Committee; and
- (c) specify the functions of the Committee.

The Mayor is, by virtue of Clause 267 of the Regulation, a member of each Committee of the Council and shall be the Chairperson unless wishing not to act in that capacity. (In the event that the Mayor does not wish to be the Chairperson, the Council may elect a member of the Committee as Chairperson. See Clause 6.2.3).

The Council may also elect a member of the Committee as Deputy Chairperson.

Voting at a Committee meeting shall be by show of hands.

### **6.2.2 Notice of Committee Meetings**

The requirements of Clauses 1.3, 1.5 and 2.1 of the Code for the giving of notice of meetings and business papers shall apply to meetings of Committees of which all members are Councillors.

### **6.2.3 Election of Chairperson by Committee**

Each meeting of a Committee must be presided over by a Chairperson. (If the Council does not elect a Chairperson in terms of 6.2.1 above, the Committee must do so).

The Committee may elect a member as Deputy Chairperson if the Council has not done so.

If neither the Chairperson nor the Deputy Chairperson is able to preside at any meeting, the Committee must elect an acting Chairperson to preside.

The Committee shall decide whether or not the Chairperson shall have a casting vote as well as an original vote whenever voting is equal.

### **6.2.4 Absence of Members**

Other than in respect of a Committee of which all of the Councillors are members, a member of a Committee (other than the Mayor) ceases to be a member of the Committee if the member:

- (a) has been absent from three consecutive meetings of the Committee without having given reasons acceptable to the Committee for the member's absences; or
- (b) has been absent from at least half of the meetings of the Committee held during the immediately preceding year (ending 30th June) without having given to the Committee acceptable reasons for the member's absences.

### **6.2.5 Obligation to Keep Minutes**

Each Committee of the Council must ensure that full and accurate minutes of the proceedings of meetings are kept.

The minutes shall be kept in accordance with the requirements of Part 5 of this Code.

As soon as the minutes of an earlier meeting have been confirmed at a later meeting, the person presiding at the later meeting must sign the minutes of the earlier meeting.

### **6.2.6 Reports of Committees**

If recommendations are made in a Committee report, the decision of the Council may be made separately on each recommendation.

The recommendations of a Committee are, so far as adopted by the Council, resolutions of the Council.

### **6.2.7 Committee Meetings Closed to the Public**

Meetings or parts of meetings of Committees may be closed to the public in accordance with Clause 1.8 of the Code; (if a Committee passes a resolution, or makes a recommendation, during a meeting or part of a meeting which has been closed to the public the Chairperson must:

- (a) make the resolution or recommendation public as soon as practicable after the meeting or closed part of a meeting has ended; and
- (b) report the resolution or recommendation to the next meeting of the Council).

The provisions of Clause 1.6 of the Code apply to Committee meetings of which all members are Councillors. Before any part of the meeting is closed to the public, members

of the public may make representations to or at the meeting as to whether that part should be closed. The representations may be made either in writing or by addressing the meeting.

#### **6.2.8 Disorder in Committee Meetings**

The requirements of Clause 3.10 of the Code and the Regulation relating to the maintenance of order in the Council meetings shall apply to meetings of Committees.

#### **6.2.9 Expulsion of Persons from Committee Meetings**

Any person who is not a Councillor may be expelled from a Committee meeting or part of a Committee meeting which has been closed to the public in accordance with Section 10A(2) of the Act and Clause 1.8 of the Code.

If any such person after being notified of a resolution 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 Committee may, by using only such force as is necessary, remove the expelled person from that place and if necessary, restrain that person from re-entering that place.

#### **6.2.10 Attendance of Non-Members**

A Councillor who is not a member of a Committee of the Council is entitled to attend, and to speak at, a meeting of the Committee.

However, the Councillor is not entitled:

- (a) to give notice of business for inclusion in the business paper for the meeting; or
- (b) to move or second a motion at the meeting; or
- (c) to vote at the meeting.

## **PART 7 - USE OF THE COUNCIL SEAL**

### **7.1 KEEPING THE SEAL**

The seal of the Council must be kept by the General Manager.

### **7.2 AFFIXING THE SEAL**

The seal of the Council may be affixed to a document only in the presence of:

- (a) the Mayor and the General Manager; or
- (b) at least one Councillor (other than the Mayor) and the General Manager; or
- (c) the Mayor and at least one other Councillor; or
- (d) at least two Councillors other than the Mayor.

The affixing of the Council seal to a document has no effect unless the above persons who were present when the seal was affixed attest by their signatures that the seal was affixed in their presence.

### **7.3 DOCUMENTS TO BE SEALED**

The seal of the Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved (by resolution specifically referring to the document) that the seal be so affixed.

A document in the nature of a reference or certificate of service for an employee of the Council does not relate to the business of the Council.

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## **PART 8 - PECUNIARY AND NON PECUNIARY INTEREST**

### **8.1 Disclosure and Participation in Meetings**

The are two types of interest – pecuniary and non pecuniary. Pecuniary interest occurs when a Councillor has an appreciable financial gain or loss in relation to a matter before the Council.

Non-pecuniary interest exists when a councillor could be influenced, or a reasonable person would perceive that the councillor could be influenced, by a personal interest when carrying out his or her public duty. For example, a friendship, membership of an association, society or trade union, or involvement or interest in an activity could be considered non-pecuniary interest in some matters.

#### **8.1.1 Pecuniary interest**

- (a) A Councillor or a member of the Council Committee who has a pecuniary interest in any matter with which the Council is concerned, and who is present at a meeting of the Council or Committee at which the matter is being considered, must disclose the interest to the meeting as soon as practicable and leave the meeting venue.
- (b) A person who, at the request or with the consent of the Council or a Council Committee, gives advice on any matter at any meeting of the Council or Committee, must disclose any pecuniary interest the person has in the matter to the meeting at the time the advice is given.
- (c) A general notice of disclosure made pursuant to Section 454 of the Act fulfils the requirement of subclause (1).

#### **8.1.2 Non-Pecuniary Interest**

If a non-pecuniary conflict of interest is declared, a broad range of options for managing the conflict are available. 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. A non-pecuniary conflict of interest can be managed in at least one of the following methods:

- (a) It may be appropriate that no action is taken where the potential for conflict is minimal. However, an explanation must be provided as to how such a conflict can be managed.
- (b) Involvement may be limited by participating in the debate but not in voting on the matter. The position on this must be stated when the non-pecuniary interest is declared.
- (c) After declaring a non-pecuniary interest the Councillor may immediately leave the meeting venue while the matter is being considered and voted upon by the remaining members of the Council.

#### **8.1.3 Interests that Need Not be Declared**

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

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

- i. land in which the person has a pecuniary interest; or
- ii. land adjoining, or adjacent to, land referred to in paragraph (i); or
- iii. other land in proximity to land referred to in paragraph (i), if the change would affect the value of the land referred to in paragraph (a).

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## **PART 9 - ACCESS TO INFORMATION**

### **9.1 Disclosure and Misuse of Information - Prescribed Circumstances**

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

### **9.2 Inspection and Safe Custody of the Minutes of the Council or a Committee**

(a) An inspection of the official signed minutes of the Council or Committee of the Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes.

(b) The General Manager must ensure that the official signed minutes of the Council and any minutes of a Committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

Note: Section 12 of the Act confers a right to inspect the minutes of the Council or Committee of the Council.

### **9.3 Access to Records**

Access to records will be provided in accordance with the Council's Policy on Public Access to Council Documents.

### **9.4 Misuse of Confidential Information**

Councillors, staff and delegates must always respect the confidentiality of items which are properly considered confidential pursuant to Clause 10A(2) of the Local Government Act.

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## **PART 10 - MISCELLANEOUS**

### **10.1 Councillors, Staff or Delegates must not bring the Council into Disrepute**

That Councillors, staff or delegates must make every effort to ensure the reputation of the Council is maintained and enhanced subject only to their duty to act at all times in the public interest, which is paramount.

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