

# Minutes

## Of the Special Council Meeting

**Location:** Council Chambers, Municipal Offices  
62-68 Ovens Street, Wangaratta

**Date:** 6 February 2017

**Time:** 2.30pm



RURAL CITY OF  
**WANGARATTA**

Brendan McGrath  
Chief Executive Officer



## TABLE OF CONTENTS

	<b>Page No.</b>
1. <b>ACKNOWLEDGEMENT OF TRADITIONAL OWNERS</b> .....	4
2. <b>OPENING PRAYER</b> .....	4
3. <b>PRESENT</b> .....	4
4. <b>ABSENT</b> .....	4
5. <b>ACCEPTANCE OF APOLOGIES &amp; GRANTING OF LEAVE OF ABSENCE</b> .....	4
<b>ORDER OF BUSINESS</b> .....	4
6. <b>CONFLICT OF INTEREST DISCLOSURE</b> .....	4
<b>PRESENTATION OF REPORTS</b> .....	4
<b>OFFICERS' REPORTS</b> .....	5
7. <b>CORPORATE SERVICES</b> .....	5
7.1 <b>COUNCILLOR CODE OF CONDUCT</b> .....	5
8. <b>CLOSURE OF MEETING</b> .....	9

## 1. ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

*We acknowledge the traditional owners of the land on which we are meeting. We pay our respects to their Elders and to Elders from other communities who may be here today.*

## 2. OPENING PRAYER

*Almighty God, we humbly ask thee to bless and guide this council in its deliberations so that we may truly preserve the welfare of the people whom we serve. Amen*

## 3. PRESENT

### COUNCILLORS:

MR KEN CLARKE OAM - MAYOR, MR HARVEY BENTON – DEPUTY MAYOR, MR DAVID FULLER, MR DEAN REES, MR HARRY BUSSELL, MR MARK CURRIE, MRS RUTH AMERY

### OFFICERS:

BRENDAN MCGRATH, CHIEF EXECUTIVE OFFICER, RUTH KNEEBONE , DIRECTOR CORPORATE SERVICES, JAIME CARROLL DIRECTOR COMMUNITY WELLBEING

## 4. ABSENT

NIL

## 5. ACCEPTANCE OF APOLOGIES & GRANTING OF LEAVE OF ABSENCE

### ORDER OF BUSINESS

## 6. CONFLICT OF INTEREST DISCLOSURE

In accordance with sections 77A, 77B, 78 and 79 of the *Local Government Act 1989* Councillors are required to disclose a '*conflict of interest*' in a decision if they would receive, or could reasonably be perceived as receiving, a direct or indirect financial or non-financial benefit or detriment (other than as a voter, resident or ratepayer) from the decision.

**Disclosure must occur immediately before the matter is considered or discussed.**

### PRESENTATION OF REPORTS

## **OFFICERS' REPORTS**

### **7. CORPORATE SERVICES**

#### 7.1 COUNCILLOR CODE OF CONDUCT

<b>Meeting Type:</b>	<b>Special Council Meeting</b>
<b>Date of Meeting:</b>	<b>6 February 2017</b>
<b>Author:</b>	<b>Governance and Risk Advisor</b>
<b>File Name:</b>	<b>GOVERNANCE - Registers - Councillor Code of Conduct</b>
<b>File No:</b>	<b>F16/2352</b>

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

#### **Executive Summary**

This report is presented to Council to finalise the process of reviewing, amending if necessary and adopting a major Council policy, the Councillor Code of Conduct 2017 (*refer attachment*).

#### **RECOMMENDATION:**

**(Moved: Councillor D Fuller/Councillor M Currie)**

***That Council adopts the Councillor Code of Conduct 2017.***

**Carried**

#### **Background**

The *Local Government Act 1989* (the Act) requires Council to review, and make any necessary amendments to, its Councillor Code of Conduct (the Code).

A recommended Code has been drafted and exhibited for public comment (*refer attachment*).

The Code includes a commitment to conduct principles and values, clarifies roles, provides for decision making arrangements and provides guidance on Councillor interests, election matters and other obligations as well as media and event protocols. It also provides a framework and processes for managing the conduct of Councillors.

The Code articulates the boundaries of conduct and behaviour as well as expectations for behaviour. It provides clear markers as to what behaviour is prohibited and what behaviour is expected.

One of the primary critiques of codes is that they can be too abstract and because of that they are difficult to enforce. This view is one that has been strongly conveyed by councillor conduct panel members in recent years when faced with applying codes that are too general.

### **Implications**

#### **Policy Considerations**

The Code is a Major Council Policy as defined in Council's 'Major Council Policy Consultation Local Law No. 4 of 2015' which prescribes the procedure to make or change a Major Council Policy. This procedure has been followed in respect of the Code.

#### **Financial/Economic Implications**

There are no financial or economic implications identified for the subject of this report.

#### **Legal/Statutory**

Section 76C of the Act requires Council to review, and make any necessary amendments to the Code within four months after a general election. The general election was held on 22 October 2016. The Code must therefore be adopted by Council no later than 22 February 2017 in order to comply with the Act.

Section 76C of the Act also requires that Council must, call a special meeting solely for the purpose of reviewing and amending the Councillor Code of Conduct.

Following adoption of an amended Code, Section 76C(6A) of the Act requires that a Councillor must make a declaration stating that they will abide by the Councillor Code of Conduct in writing, and witnessed by the Chief Executive Officer.

#### **Social**

In accordance with the Major Council Policy Consultation Local Law, the Code is required to be reviewed to assess any impacts on National Competition Policy and the principles under the Human Rights Charter.

The Code is considered to be compatible with the Charter of Human Rights and Responsibilities.

The introduction of the Code imposes no restrictions on competition and therefore complies with National Competition Principles.

## **Environmental/Sustainability Impacts**

There are no environmental/ sustainability impacts identified for this subject of this report.

## **2013 – 2017 Council Plan (2015 Revision)**

This report supports the 2013-2017 Council Plan:

### **Goal**

We are Sustainable

### **The non-negotiables**

All legislative and compliance requirements are met.

### **Risk Management**

The adoption of a Councillor Code of Conduct will ensure statutory compliance and as well as mitigating the risks associated with Councillor misconduct.

It establishes a foundation element of Council's ethics regime. The Code is not designed for "bad" people, but for the persons who want to act ethically. The bad person will seldom follow a code, while most people welcome ethical guidance in difficult or unclear situations. However, the Code will have a demonstrable impact on the behaviour of bad people. When everyone clearly knows the ethical standards of Council they are more likely to recognise wrongdoing; and do something about it. Also, miscreants are often hesitant to commit an unethical act if they believe that everyone else around them knows it is wrong.

### **Consultation/Communication**

Submissions were invited from the community in regards to the Code in accordance with clause 7 of the Major Council Policy Consultation Local Law.

A notice to this effect was advertised in the Chronicle newspaper and also on Council's website indicating that submissions would be received for 28 days. Submissions have been considered by Council in relation to the Code.

One submission was received. The submitter requested to be heard by a Committee of Council in relation to the submission.

The submission has been reviewed internally. A summary of the submission together with an analysis of the merit of the changes requested by the submitter has been conducted (*refer attachment*).

None of the submitter's requested changes are recommended for adoption.

Officers believe that appropriate consultation has occurred and the matter is now ready for Council consideration.

### **Options for Consideration**

There are no alternative processes available to Council that are legally compliant.

Possible options for amendment of the Code were the subject of the submission received during the exhibition period. The content of the final document has not been amended.

### **Conclusion**

The Councillor Code of Conduct 2017 has been developed and placed on exhibition for public review and submissions as required by the Major Council Policy Consultation Local law. The submission received has been reviewed and has received consideration. The reviewed and amended Councillor Code of Conduct 2017 is recommended for adoption by Council as prescribed by section 76C of the Act.

### **Attachments**

- 1 Councillor Code of Conduct 2017
- 2 Councillor Code of Conduct 2017 Submission Analysis

**8. CLOSURE OF MEETING**

The Meeting closed at 2.39pm.