



# **LATE ITEMS ORDINARY MEETING**

## **AGENDA**

**22 OCTOBER 2019**

*Your attendance is required at an Ordinary meeting of Council to be held in the Council Chambers, 4 Lagoon Place, Yeppoon on 22 October 2019 commencing at 9.00am for transaction of the enclosed business.*

**CHIEF EXECUTIVE OFFICER**  
18 October 2019

Next Meeting Date: 05.11.19

**Please note:**

In accordance with the *Local Government Regulation 2012*, please be advised that all discussion held during the meeting is recorded for the purpose of verifying the minutes. This will include any discussion involving a Councillor, staff member or a member of the public.

---

## TABLE OF CONTENTS

---

ITEM	SUBJECT	PAGE NO
12	REPORTS.....	1
12.4	PETITION AND PROPOSED MOTION - COUNCIL MEETING PROCEDURES POLICY: MOTIONS AND QUESTIONS ON NOTICE .....	1

## 12 REPORTS

### 12.4 PETITION AND PROPOSED MOTION - COUNCIL MEETING PROCEDURES POLICY: MOTIONS AND QUESTIONS ON NOTICE

**File No:** CM4.7.36

**Attachments:**

1. Petition Request - Cr Belot [↓](#)
2. Proposed Notice of Motion - Cr Mather [↓](#)

**Responsible Officer:** Andrea Ellis - Chief Financial Officer

**Author:** Rodney Chapman - Coordinator Governance

---

#### SUMMARY

*Council has received a petition lodged by Councillor Belot and a Proposed Motion from Councillor Mather both requesting Councils Meeting Procedures be amended to reflect that all Questions on Notice and Notice of Motions submitted by Councillors must be included on the Agenda for Council Meetings.*

*As both submissions reflect the same subject matter, this report is submitted in relation to both the petition and proposed motion for the consideration of Councillors.*

#### OFFICER'S RECOMMENDATION

THAT Council resolve to

- a) Amend the Meeting Procedures Policy, section 2.9.2 to reflect the following;

##### **Notice of Motion**

*Notices of Motion are a means available of showing an intention to do something at a particular Meeting. An advantage of giving notice is that interested persons are made aware of the motion on the Agenda and therefore have time to consider its implications.*

*Submission of 'Notice of Motion' must be given at least seven (7) days before the meeting at which the proposal is to be received.*

*Where a Councillor who has given notice of a motion is absent from the meeting at which the motion is to be considered, the motion may be:*

- (a) Moved by another Councillor at the meeting; or*
- (b) Deferred to the next appropriate ordinary meeting.*

*Notice of motions must:*

- (a) Be framed as succinctly as possible;*
- (b) Not include argument or discussion or excessive background material;*
- (c) Be relevant to the good order of the business of the Council; and*
- (d) Not be an action that could be dealt within operational procedures.*

*The Chairperson may call the notices of motion in the order in which they appear on the agenda, and where no objection is taken to a motion being taken as a formal motion, the Chairperson may put the motion to receive the Notice of Motions to the vote without discussion.*

*Each Notice of Motion may then be dealt with. The Chairperson may determine that any Notice of Motion formally received is best dealt with at another ordinary meeting (to allow time for preparation of an Officer's Report in relation to the matter).*

OR, alternatively

- b) Refer this matter to the next Councillor Briefing Session to workshop development of

preferable wording of the above amendment to Councils Meeting Procedures Policy.

## BACKGROUND

In 2018, the Queensland Crime and Corruption Commission released a report and recommendations after an investigation into a number of local governments. As a result, the Queensland State Government made amendments to the *Local Government Act 2009* particularly in relation to the conduct of Councillors at meetings and dealing with real and perceived conflicts of interest.

The State Government released a model Meeting Procedures Policy requiring Councils to either adopt the model procedures provided, or develop alternatives consistent with the model procedures. The model developed by the State Government was silent on many aspects of Council meetings, including Notice of Motions, Questions on Notice or Councillors placing an item on the agenda.

Using the base of the State model, a new 'Meeting Procedures Policy' was developed and adopted by Council on 30 November 2018.

On 6 August 2019, Council received a petition lodged by Cr Belot (Attachment 1) seeking that;

- *"the Chief Executive Officer (CEO) in preparing the agenda for a council meeting must include Notices of Motion and Questions on Notice requested in writing by a Councillor that is received by the CEO 7 days before the notice of meeting is given".*

A Proposed Motion to the same effect has also been received from Cr Mather (Attachment 2) which provides;

- *"That Council proceed to amend its Standing Orders on Meeting Procedures to reinstate both:  
a) Notices of Motion, and  
b) Questions on Notice."*

## COMMENTARY

### Intent of Changes

The intent of changes in 2018 (of process relating to Questions on Notice / Notice of Motions) was an attempt to strike a balance, between the Councillors ability to table a matter requiring debate and resolution, and enhancing efficient process and, informed and effective decision making either through resolution or delegated action on matters dealt with by the local government. Some aspects considered were;

- 1) an intent to minimise unnecessary double and triple handling of items / motions at meetings; with matters being laid and lifted from the table while Officers advice and further input is sought. It was intended that if a matter was to be presented for debate and vote, it would be presented with all necessary information and advice in the first instance to allow for informed debate and / or decision making;
- 2) an intent to minimise the risk of motions raised, debated and resolved by Councillors prior to input and advice from relevant Council Officers. This may lead to decisions that may be inadvertently unlawful, detrimental to Council or might unilaterally change an agreement or understanding between Council and another party;.
- 3) a recognition that Council has a wide range of Policies and operational directives and procedures that can appropriately, efficiently and effectively deal with and resolve some matters that are brought before the table by Councillors; and
- 4) a consideration that many items from Councillors for the agenda can be answered or dealt with more appropriately under the provisions of s170A of the *Local Government Act 2009*, and existing operational procedures; rather than through the provisions of Questions / Notice of Motion for ordinary meetings.

The *Local Government Act 2009* (s170A) along with Part 4 - General Information Requests by Councillors, 'Councillor Interaction with the Organisation Policy', affords an appropriate

avenue for any Councillors seeking to obtain advice from local government employees to assist them to carry out their responsibilities under the Act; and obtain information, answers and / or documents relating to the local government. It is suggested that this provides a more efficient platform (for the Councillor and the Organisation) than questions, queries and issues being referred directly to an Ordinary Meeting.

With reference to Livingstone's Meeting Procedures, in promotion of the submitted petition, significant emphasis was applied to the excerpt '*The Chief Executive Officer will consider the item to be placed on the agenda and if deemed suitable will place the item on the agenda*'.

It is recognised that if read in isolation this sentence may potentially be interpreted as an outright accept or reject proposition, however it is suggested that reading of Section 2.9.2 in its entirety provides that this is not the intent;

Section 2.9.2 in its entirety provides;

### **2.9.2 Request by a Councillor to Place an Item on the Agenda**

*A Councillor wishing to place an item on the agenda for a future meeting must apply in writing to the Chief Executive Officer who will action generally within fifteen (15) business days before the day of the meeting. This timeframe is to enable officers to provide the necessary background information and context to allow Councillors to have all of the relevant information available to them relating to the matter.*

*The Chief Executive Officer will consider the item to be placed on the agenda and if deemed suitable will place the item on the agenda of a future Briefing Session. The date determined of the Briefing Session will consider the complexity of the matter and ensure officers have suitable time to prepare a report in relation to the matter including obtaining any external reports that may be necessary.*

*The Chief Executive Officer will notify the Councillor in writing as to the date determined for the matter to be discussed at a Briefing Session within five (5) days of the Briefing Session being conducted unless the matter has otherwise already been dealt with or is in the process of being dealt with operationally.*

*The Chief Executive Officer will notify the Councillor in writing within five (5) days if the request has been denied, stating the reason as to why the request is not being included on an agenda such as the matter has already been dealt with, is currently being dealt with at an operational level, is already on the current agenda or is planned to already be on a future agenda.*

*Any reports relating to the requested agenda item if approved, will include the following:*

- (a) The Councillor who has requested the report;*
- (b) Recommendation from Councillor;*
- (c) Recommendation from Officers; and*
- (d) Supporting documentation for recommendations.*

*The Chief Executive Officer will ensure that all Councillor requests to place an item on the agenda are noted at an ordinary Council meeting, regardless of whether a Council resolution is required or not. The report will note the Councillor who has raised the matter, and the manner in which the request is being managed. This will be a standalone report that will identify, since the last meeting, matters Councillors have raised for inclusion in upcoming agendas and for each matter it will state whether it's on the current agenda, will come to a future agenda, has already been actioned or is being dealt with operationally.*

As per paragraph four (4) of section 2.9.2, the intent and application is that items raised by Councillors for the meeting agenda would have four (4) alternative actions (or responses), being;

1. "the matter has already been dealt with";
2. "is currently being dealt with at an operational level";

3. *“is already on the current agenda”*; or
4. *“is planned to already be on a future agenda”*.

In hindsight, it may have been prudent to articulate this through arranging the above as necessary options a), b), c), d) to provide more clarity. As per the final paragraph of section 2.9.2, all items raised by Councillors that are not on the Ordinary Meeting agenda for debate (namely those items that have been dealt with or are intended to be dealt with operationally), are listed with a written update providing details of the Councillor who has raised the matter, and the manner in which the request is being managed (e.g. has already been actioned or is being dealt with operationally).

Of note, during promotion of the subject petition, the Rockhampton Regional Council Meeting Procedures were advanced by the submitting Councillor as a favoured model. The Rockhampton Regional Council procedures provide;

### **5.8 Notice of Motion**

*Submission of notice of motion must be given at least five days before the meeting at which the proposal is to be made.*

*Councillors may advise whether the notice of motion is to go to the next ordinary meeting or next appropriate committee meeting. However the CEO, in setting the agendas, may determine that the notice of motion is best dealt with by another committee or ordinary meeting.*

*Where a Councillor who has given notice of a motion is absent from the meeting at which the motion is to be considered, the motion may be:*

- (a) Moved by another Councillor at the meeting; or*
- (b) Deferred to the next appropriate committee or ordinary meeting.*

*Notice of motions must:*

- (a) Be framed as succinctly as possible;*
- (b) Not include argument or discussion or excessive background material;*
- (c) Be relevant to the good order of the business of the Council; and*
- (d) Not be an action that could be dealt within operational procedures.*

### **5.9 Questions on Notice**

*The questions on notice from a Councillor will be published in the agenda of the appropriate meeting providing such questions are received by the CEO in time for publishing of the agenda.*

*Questions on notice must:*

- (a) Be framed as succinctly as possible;*
- (b) Not include argument or discussion or excessive background material;*
- (c) Be relevant to the good order of the business of the Council; and*
- (d) Not be a question that could be answered under operational procedures.*

*Councillors can ask questions without notice where a genuine urgency exists, and the matter is not included in the agenda.*

It is submitted that the Rockhampton Regional Council procedures also provides some level of discretion to the CEO in deeming actions and suitability of the motion, namely;

- That *“the CEO, in setting the agendas, may determine that the notice of motion is best dealt with by another committee or ordinary meeting”*; and

- The Rockhampton provision also appears to give the authority to the CEO to exclude Notices of Motion or Question on Notice if it is not compliant with the requirements of subsections a), b), c) or d).

Section 170A of the *Local Government Act 2009* was re-written in 2012 to provide wider scope for Councillor information requests. Advice can now be sought about a broad range of matters including assisting the Councillor to respond to constituent queries about what is being done, or could be done about a particular local issue. It is submitted that the 170A provision for Councillors to ask questions of the organisation and seek information to assist in performing their role has made Questions on Notice at Ordinary Council Meetings unnecessary and largely obsolete.

Questions on Notice aside, Rockhampton Regional Council procedures appears to seek similar outcomes as Livingstone Council procedures; offering efficiencies and the practicalities of operational matters to be dealt with operationally and allowing the CEO to defer a matter to another meeting to allow time for information and advice to be collated. Rockhampton Regional Council procedures achieve this in a relatively concise and clear language which is also utilised by a number of other Councils in Queensland.

Notwithstanding the above, it should be noted that many of Councils powers that provide for operational decision making are delegated to Officers throughout the organisation under the provisions of sections 257 and 259 of the *Local Government Act 2009*. The elected Council reserves the right to retain and / or exercise these powers by resolution during Council Meetings. While operational matters are ideally managed via existing operational procedures in the first instance, this should not exclude the opportunity for Councillors to escalate a community issue for review by the table in the instance that there is disagreement or dissatisfaction with a decision or action taken by Officers.

#### Petition – Cr Belot

In the petition request it is sought the following be considered;

- *“the Chief Executive Officer (CEO) in preparing the agenda for a council meeting must include Notices of Motion and Questions on Notice requested in writing by a Councillor that is received by the CEO 7 days before the notice of meeting is given”.*

The following commentary is provided in consideration of this motion;

- 1) As previously provided, Questions on Notice are largely redundant given the ability of Councillors to utilise section 170A of the *Local Government Act 2009* for this purpose, and
- 2) The words “7 days before the notice of meeting is given’ would be impractical as ‘notice of meetings’ (excluding special meetings) is generally provided at commencement of the calendar year. Assuming the intention was to mean “7 days before the date of meeting”, this wording would be more appropriate.

#### Notice of Motion - Cr Mather

The following proposed Notice of Motion has been received;

- *"That Council proceed to amend its Standing Orders on Meeting Procedures to reinstate both:  
a) Notices of Motion, and  
b) Questions on Notice."*

The following commentary is provided for consideration of this motion;

- 1) As previously provided, Questions on Notice are largely redundant given the ability of Councillors to utilise section 170A of the *Local Government Act 2009* for this purpose, and;
- 2) It is assumed reinstatement is to revert to the previous provisions, which (in part) provided;



- *“The questions/motions on notice from a Councillor will be placed in the agenda of the nominated meeting providing such questions/motions are received by the CEO in writing not less than five (5) days before the day of the meeting”*

## **PREVIOUS DECISIONS**

The current Meeting Procedures Policy was adopted on 30 November 2018.

## **BUDGET IMPLICATIONS**

There are no budget implications.

## **LEGISLATIVE CONTEXT**

*Local Government Act 2009.*

## **LEGAL IMPLICATIONS**

The processes related to items on and Ordinary Meeting Agenda, namely ‘Questions on Notice’ and ‘Notices of Motion’ are not regulated. They are a discretionary matter for Council.

## **STAFFING IMPLICATIONS**

There are no staffing implications.

## **RISK ASSESSMENT**

Debate and resolution without proper advice based on factual information, may lead to unlawful or decisions detrimental to Council. The other risks related to process are relatively low and associated to finding practice that is committed to effective local government.

## **CORPORATE/OPERATIONAL PLAN**

**Corporate Plan Reference:** Strategy GO4: Provide transparent and accountable decision making reflecting positive leadership to the community.

## **LOCAL GOVERNMENT PRINCIPLES**

The local government principles are –

- (a) Transparent and effective processes, and decision-making in the public interest; and
- (b) Sustainable development and management of assets and infrastructure, and delivery of effective services; and
- (c) Democratic representation, social inclusion and meaningful community engagement; and
- (d) Good governance of, and by, local government; and
- (e) Ethical and legal behaviour of councillors and local government employees.

## **CONCLUSION**

While reverting back to the previous procedures may be deemed acceptable, it has certain disadvantages as outlined, namely;

- 1) Increased handling of motions (laying and lifting matters from the table);
- 2) Increased risk of decisions made without receipt of Officer advice; and
- 3) Bypasses the advantage of having operational matters dealt with in a more timely manner via existing operational procedures in the first instance.

Neither the current Meeting Procedures Policy, or the proposed Notice of Motion / Petition contravene any requirements of the Local Government Act and Regulations. The content of Council meeting agendas, and the administrative processes to facilitate the orderly conduct of its meetings, is a matter for Council to determine by resolution. A decision by Council should consider preferred process, efficiency and the level of accepted risk.

All things considered, what is proposed in the officers recommendation is an amendment that attempts to strike a good balance in the ability for Councillors to raise matters for discussion while mitigating identified risks and improving efficiencies.

Research with some other Councils found a process whereby Notices of Motion are tabled to be received and can be determined by Councillors as to how the matter is appropriately dealt with. It is suggested this may be a preferred outcome.

It is intended this achieves mutual benefits in allowing Councillors to place matters before the table for consideration, while also promoting the ability for Councillors and the organisation to manage matters in more efficient ways. The Councillors (by majority) will be able to determine the merits and suitability of proposals, in that motions can be;

- received and deferred to a following meeting to allow information and advice to be collated;
- not received if the motion is deemed by the majority to be not relevant to the good order of the business of the Council or is a matter that is best dealt with operationally;
- dealt with immediately if deemed appropriate by the chairperson.

It is hoped this recommendation provides an acceptable, effective and efficient process that recognises and acknowledges the various roles, responsibilities of Councillors, the Chief Executive Officer and Council Officers.

## **12.4 - PETITION AND PROPOSED MOTION - COUNCIL MEETING PROCEDURES POLICY: MOTIONS AND QUESTIONS ON NOTICE**

### **Petition Request - Cr Belot**

**Meeting Date: 22 October 2019**

**Attachment No: 1**

To the Chief Executive officer of Livingstone Shire Council,

I hereby submit the following Petition for inclusion into a future Ordinary Meeting of Council.

Principal Petitioner Details

Name Cr Adam Belot

Address 40 Gregory Street Yeppoon

Phone 0427 311 430

Adam.belot@livingstone.qld.gov.au

Petition Request

We the undersigned request that Council give consideration to :

That the Chief Executive Officer (CEO), in preparing the agenda for a council meeting must include Notices of Motions and Questions on Notice requested in writing by a Councillor that is received by the CEO 7 days before the notice of meeting is given.

Sincerely,

Cr Adam Belot

23/07/19

# **12.4 - PETITION AND PROPOSED MOTION - COUNCIL MEETING PROCEDURES POLICY: MOTIONS AND QUESTIONS ON NOTICE**

## **Proposed Notice of Motion - Cr Mather**

**Meeting Date: 22 October 2019**

**Attachment No: 2**

PO Box 5186  
Red Hill PO  
Rockhampton Q 4701  
10 August 2019

Chief Executive Officer  
Livingstone Shire Council  
Yeppoon Q 4703

**Proposed Motion  
Meeting Procedures**

Dear Madam CEO,

I formally submit the following Proposed Motion which I request to be included in the next Ordinary Agenda:

**"That Council proceed to amend its Standing Orders on Meeting Procedures to reinstate both:**

- a) Notices of Motion, and**
- b) Questions on Notice."**

Background:

A previous decision to remove these two instruments has done nothing to enhance or streamline Council's agendas or meeting procedures, despite Council's best intentions at the time.

In fact, I firmly believe Council's inability to utilize these instruments as intended, has effectively caused a decline in the transparency of governance, and conflicts with the Local Government Principles, namely:

- a) Transparent and effective processes, and decision-making in the public interest; and
- c) Democratic representation, social inclusion and meaningful community engagement.

There is widespread common opinion across the state, shared by many sitting councillors, that their ability to effectively represent their constituents is fast becoming undermined due to many legislative changes.

We need to demonstrate to our residents and ratepayers that this Council does not suppress its representatives from carrying out their roles.

Many thanks,  
Glenda Mather CLr