



SPECIAL MEETING

AGENDA

30 NOVEMBER 2018

Your attendance is required at a Special meeting of Council to be held in the Council Chambers, 4 Lagoon Place, Yeppoon on 30 November 2018 commencing at 8.00am for transaction of the enclosed business.

A handwritten signature in dark ink, appearing to read "Alan Jackson", is positioned above the title of the Chief Executive Officer.

CHIEF EXECUTIVE OFFICER
28 November 2018

Next Meeting Date: 04.12.18

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.

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1 OPENING

2 ATTENDANCE

Members Present:

Mayor, Councillor Bill Ludwig (Chairperson)
Deputy Mayor, Councillor Nigel Hutton
Councillor Adam Belot
Councillor Pat Eastwood
Councillor Jan Kelly
Councillor Glenda Mather
Councillor Tom Wyatt

In Attendance:

Mrs Chris Murdoch – Chief Executive Officer
Mr Brett Bacon – Executive Director Liveability and Wellbeing
Mr Dan Toon – Executive Director Infrastructure
Mrs Andrea Ellis – Chief Financial Officer
Mr Matthew Willcocks - Chief Technology Officer
Mr Shane Weir - Acting Chief Human Resources Officer

3 LEAVE OF ABSENCE / APOLOGIES

Nil

4 MAYORAL MINUTE

Nil

5 DECLARATION OF INTEREST IN MATTERS ON THE AGENDA

6 BUSINESS ARISING OR OUTSTANDING FROM PREVIOUS MEETINGS

Nil

7 PRESENTATION OF PETITIONS

Nil

**8 AUDIT, RISK AND BUSINESS IMPROVEMENT COMMITTEE
 REPORTS**

Nil

9 COUNCILLOR/DELEGATE REPORTS

Nil

10 REPORTS

10.1 ADOPTION OF COUNCIL AND COUNCILLOR RELATED POLICIES

File No: CM4.7.13

Attachments:

1. Meeting Procedures Policy [↓](#)
2. Councillor Interaction with the Organisation Policy [↓](#)
3. Briefing Sessions Policy [↓](#)
4. Councillor Complaints Investigation Policy [↓](#)

Responsible Officer: Rodney Chapman - Coordinator Governance
Andrea Ellis - Chief Financial Officer

Author: Suzanne Pambid - Governance Officer

SUMMARY

The Draft Meeting Procedures Policy, Councillor Interaction with the Organisation Policy, Briefing Sessions Policy and Councillor Complaints Investigation Policy will be presented for consideration and adoption by Council.

OFFICER'S RECOMMENDATION

THAT Council:

1. Adopt the Meeting Procedures Policy;
2. Adopt the Councillor Interaction with the Organisation Policy;
3. Adopt the Briefing Sessions Policy; and
4. Adopt the Councillor Complaints Investigation Policy.

BACKGROUND

With the passing of the *Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018* on 21 May 2018, the *Local Government Act 2009* now provides for a more effective and streamlined system for dealing with Councillor complaints and imposes a mandatory Code of Conduct for Councillors.

Subsequent to the amendments, the Department of Local Government, Racing and Multicultural Affairs (DLGRMA) developed and released a number of model policies to reflect the legislative changes with requirements that all Councils either adopt the models or policies consistent with the models to take effect 3 December 2018.

The abovementioned four (4) Council policies have been amended or developed to reflect legislative amendments and maintain compliance with the new statutory requirements.

COMMENTARY

On 8 November 2018, DLGRMA released Model Meeting Procedures, Standing Orders and Investigation Policy to provide guidance for Councils in developing or amending their own existing documents to reflect the legislative amendments and requirements.

Meeting Procedures Policy

By incorporating Council's current Meeting Procedure Policy and the Model Meeting Procedures / Standing orders issued by DLGRMA, Council Officers have developed the attached amended Meeting Procedure Policy to reflect current practice, provide for Council needs and necessary amendments to ensure statutory compliance.

Councillor Interaction with the Organisation Policy

The Councillor Interaction with the Organisation Policy reflects changes to process in how complaints about Councillors are dealt with as a result of legislative changes. The reference to dealing with the Media was removed from this policy due to the previous adoption of the new stand-alone Council Media Policy.

Briefing Sessions Policy

The Briefing Sessions Policy is a new policy presented to Council for adoption and sets out the guidelines of Briefing Sessions and informal meetings which will now occur in place of Advisory Committee meetings previously held by Council. The Policy is consistent with the State Government publication *Guidelines for the Conduct of Informal Briefing Sessions by Local Governments* and is consistent with the Local Government Principles identified in Section 4 of the *Local Government Act 2009*.

Councillor Complaints Investigation Policy

The Councillor Complaints Investigation Policy is a new policy that reflects the processes in which complaints about Councillors are investigated and managed as a result of legislative changes. This policy is submitted as per the Model Investigation Policy provided by DLGRMA.

PREVIOUS DECISIONS

The Meeting Procedure Policy and Councillor Interaction with the Organisation Policy were previously adopted by Council on 31 March 2016, The Briefing Sessions Policy and Councillor Complaints Investigation Policy are new policies submitted for adoption.

BUDGET IMPLICATIONS

There are no identified budget implications in relation to this matter.

LEGISLATIVE CONTEXT

The policies presented for adoption contain changes to reflect amendments required as a result of the passing of *the Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018* and ensures continued compliance with the *Local Government Act 2009* and the *Local Government Regulations 2012*.

LEGAL IMPLICATIONS

Legal behavior of Councillors and Local Government employees are a provision of the Local Government Principles provided by the *Local Government Act 2009* (s4).

STAFFING IMPLICATIONS

There are no identified staffing implications in relation to this matter.

RISK ASSESSMENT

Adoption and adherence to Policies and processes consistent with legislative requirements minimises the risk of non-compliant decisions and actions of Council and its Officers.

CORPORATE/OPERATIONAL PLAN

Corporate Plan Reference: Strategy GO2: Develop strategic plans and policies to address local and regional issues and guide service provision.

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

In light of recent legislative amendments and to ensure a continuation of statutory compliance and best practice, the Meeting Procedures Policy, Councillor Interaction with the Organisation Policy, Briefing Sessions Policy and Councillor Complaints Investigation Policy are submitted for consideration and adoption by Council.

10.1 - ADOPTION OF COUNCIL AND COUNCILLOR RELATED POLICIES

Meeting Procedures Policy

Meeting Date: 30 November 2018

Attachment No: 1



MEETING PROCEDURES POLICY (COMMUNITY POLICY)

1. Scope

The Meeting Procedures Policy (this 'Policy') applies to Livingstone Shire Council Councillors and employees.

2. Purpose

The purpose of this Policy is to establish Council's direction for the conduct of Council Meetings, including the post-election Meeting, and to provide for the orderly and proper conduct of all Meetings.

3. References (legislation/related documents)

Legislative reference

Local Government Act 2009

Local Government Regulation 2012

Related documents

Deputation Guideline

Petition Guideline

In the event of any inconsistency between the Policy and the *Local Government Act 2009* (Act) or the *Local Government Regulation 2012* (Regulation), the Act or the Regulation (as the case may be) will prevail to the extent of the inconsistency.

4. Definitions

To assist in interpretation, the following definitions shall apply:

Act	<i>Local Government Act 2009.</i>
Amendment	Seeks to modify a motion on the floor by adding to it or deleting from the motion without substantively changing or negating it. An amendment is not a new motion that seeks to alter the general intent of the original motion and cannot be a direct negative of the motion on the floor.
CEO	Chief Executive Officer – A person who holds an appointment under s194 of the <i>Local Government Act 2009</i> . This includes a person acting in this position.

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Chairperson	The person who is the Chairperson of a Council Meeting or a Council Committee and includes any person who is presiding at a particular meeting.
Committee	A group created by resolution of Council to undertake functions as determined under the <i>Local Government Act 2009</i> and <i>Local Government Regulation 2012</i> . A committee may be an advisory or standing committee.
Council	The body of elected Councillors of Livingstone Shire Council.
Day	Business Day.
Meeting	Council's principal decision-making forum whereby Livingstone Shire Council's elected members meet to consult, deliberate and make decisions in accordance with section 257 and section 268 of the <i>Local Government Regulation 2012</i> .
Deputation	A presentation from up to three (3) members of the public (on behalf of an organisation or individual/s) on a particular matter to either a Council Meeting or Council Workshop. A deputation can be requested by a member of the public, a Council Officer, a Councillor or as a result of a Council resolution.
Motion	A proposal for consideration by Council at a meeting. It is a request to do something or to express an opinion about something. There are two (2) types of motions – formal and procedural. A formal motion is a proposition that requires or acknowledges action that has to be, or has been, carried out, and may also state a view or preferred position on a particular issue. A procedural motion can be utilised in specific ways to control the conduct of meetings.
Mover	An elected official who proposes a motion.
Petition	In accordance with the Petition Guideline, a request for action on a matter over which Council has the power to act. The terms of a petition detail the reasons for petitioning Council and a petition must include the name, address and signature of each person signing the petition. A petition must also detail the primary contact's name, address and telephone number.
Point of Order	A point raised to draw attention to an alleged meeting procedure breach in accordance with the Act.
Regulation	<i>Local Government Regulation 2012</i> .
Report	A document which details the business to be dealt with at a Meeting or Workshop of Council. Reports may include personal information only to the extent necessary to ensure meaningfulness to the matter to be discussed within Council's legislative obligations under the <i>Information Privacy Act 2009</i> .
Resolution	A motion that has been passed by a majority of Councillors at the meeting. In practice it means the 'Council decision', however the word 'resolution' also indicates the process by

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	which the decision was made.
Seconder	An elected official who officially endorses a motion made by the Mover.
Special Meeting	A meeting at which the only business that may be conducted is the business stated in the notice of the meeting.

5. Policy Statement

Livingstone Shire Council is committed to acting in the best interest of the community and to upholding the principles of honesty, integrity and transparency, which are all key components of good governance.

This Policy is in accordance with the *Local Government Act 2009* and the *Local Government Regulation 2012*.

6. Guiding Principles

The following principles are applied with respect to the procedures to be observed at a meeting:

- (a) Procedures should be fair and contribute to open, transparent and informed decision-making;
- (b) Procedures should encourage appropriate community participation in the affairs of Council;
- (c) Procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at a meeting;
- (d) Procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting;
- (e) Transparent and effective processes, and decision-making in the public interest;
- (f) Sustainable development and management of assets and infrastructure, and delivery of effective services;
- (g) Democratic representation, social inclusion and meaningful community engagement;
- (h) Good governance of, and by, local government; and
- (i) Ethical and legal behaviour of Councillors and local government employees.

7. Changes to this Policy

This Policy is to remain in force until any of the following occur:

1. The related information is amended/replaced; or
2. Other circumstances as determined from time to time by the Council.

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8. Repeals/Amendments

This Policy repeals the former Livingstone Shire Council Policy titled 'Meeting Procedure Policy (v3)'.

Version	Date	Action
1	03/01/2014	Adopted
2	03/03/2015	Amended Policy Adopted
3	31/03/2016	Amended Policy Adopted
4	Draft	

CHRIS MURDOCH
CHIEF EXECUTIVE OFFICER

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Part 1 – Roles and Responsibilities

1.1 Councillors

- 1.1.1 All Councillors are required to participate in Council Meetings, policy development and decision making for the benefit of the Livingstone Shire Council area.
- 1.1.2 Councillors must be prepared and attend Council Meetings on time.
- 1.1.3 Councillors will be taken to have read the agenda prior to commencement of the meeting.
- 1.1.4 Council Meeting discussions and decisions should relate to high level, strategic issues rather than operational issues to serve overall public interest.

1.2 Mayor / Chairperson

- 1.2.1 In addition to Councillor responsibilities the Mayor is also responsible for leading and managing Council Meetings at which the Mayor is Chairperson, including:
 - (i) managing the agenda;
 - (ii) preserving order;
 - (iii) managing debate;
 - (iv) conducting votes and declaring results;
 - (v) supervising the preparation of minutes; and
 - (vi) managing the time of the meetings.

Part 2 – Council Meetings

2.1 Post-election Meeting

- 2.1.1 Council must hold a Meeting within 14 calendar days after the conclusion of each quadrennial election or the conclusion of a fresh election of its Councillors.
- 2.1.2 Council must, by resolution, appoint a Deputy Mayor from its Councillors at that Meeting or at the first Meeting after the office of the Councillor who is the Deputy Mayor becomes vacant.
- 2.1.3 Matters which Council must consider at a post-election Meeting include the day and time for holding Council's Meetings and determination of standing committees or portfolios.

2.2 Meetings of Council

- 2.2.1 The days and times of Council Meetings will be as resolved at the post-election Meeting and from time to time thereafter.
- 2.2.2 Council must meet at least once in each month.
- 2.2.3 All Council Meetings will be held at its Council Chambers located at 4 Lagoon Place, Yeppoon, unless otherwise resolved at a Meeting.
- 2.2.4 Business may be conducted at a Council Meeting only if a quorum is present. In accordance with section 269 *Local Government Regulation 2012*, for a quorum to exist at least half of the Councillors must be present.

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2.3 Special Meetings

- 2.3.1 The Chief Executive Officer may call a Special Meeting of Council if:
- (a) the Special Meeting is required by a resolution of Council; or
 - (b) a written request for a Special Meeting of Council is signed by the Mayor or three (3) or more Councillors and specifies the purpose of the Special Meeting, and proposes a day and time for the holding of the Special Meeting; or
 - (c) the Chief Executive Officer determines it is in the interests of Council that a Special Meeting be held.
- 2.3.2 Special Meetings follow the requirements and processes of a Council Meeting with the exception that the only business that may be conducted at a Special Meeting is the business specified in the notice of meeting.

2.4 Closed Meetings

- 2.4.1 In accordance with the *Local Government Regulation 2012*, Council may resolve by resolution that a Meeting be closed to the public to discuss:
- (a) the appointment, dismissal or discipline of employees; or
 - (b) industrial matters affecting employees; or
 - (c) Council's budget; or
 - (d) rating concessions; or
 - (e) contracts proposed to be made by Council; or
 - (f) starting or defending legal proceedings involving Council; or
 - (g) any action to be taken by Council under the Planning Act, including deciding applications made to it under that Act; or
 - (h) other business for which a public discussion would be likely to prejudice the interests of Livingstone Shire Council or someone else, or enable a person to gain a financial advantage.
- 2.4.2 A resolution that a Council Meeting be closed must state the nature of the matters to be considered while the Meeting is closed.
- 2.4.3 A resolution must be passed by Council to move into a closed session and to exit out of closed session.
- 2.4.4 When a Council Meeting is closed, the Chairperson will direct all persons, other than members of Council to leave the Meeting and every person must immediately comply with the direction.
- This does not apply to the relevant officers of Council, or its legal and technical advisers, who are required to be in attendance for the matter under discussion.
- 2.4.5 Discussions within closed sessions are confidential in nature and when moving into a closed session, the Chairperson should remind Council that what is discussed in a closed session must stay confidential.
- 2.4.6 Council must not make a resolution (other than a procedural resolution) in a closed meeting.
- 2.4.7 The minutes must detail the matter discussed and reasoning for discussing the matter in closed session.

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2.5 Notice of Meetings

- 2.5.1 The Chief Executive Officer must send to each Councillor, at least two (2) full days before if practicable, a notice of the time and place and the business on the Agenda of the Meeting.
- 2.5.2 Meetings must not start before the time provided in the notice.
- 2.5.3 Livingstone Shire Council will ensure that a notice of upcoming Meetings is placed in a newspaper generally circulated in the local government area and on Council's website. The notice will specify the time, location and dates of the meeting/s.
- 2.5.4 Livingstone Shire Council must immediately notify any change to the days and times in the same way as the days and times were previously notified.
- 2.5.5 The full agenda for a Meeting and Special Meeting, excluding confidential items, will be placed on Council's website and be open to inspection on the same day that the agenda for the Meeting is made available to Councillors.

2.6 Commencement of Meetings and Quorums

- 2.6.1 All Meetings will commence as soon after the time specified in the notice of meeting as long as a quorum is present.
- 2.6.2 If the number of apologies received by the Chief Executive Officer indicates that a quorum will not be present at a Meeting the Chief Executive Officer may adjourn the Meeting to a specified day and time.
- 2.6.3 If, after 15 minutes past the commencement time a quorum is not present, the Meeting may be adjourned to a later hour or another day within 14 calendar days after the day of adjournment, by:
 - (a) a majority of the Councillors present; or
 - (b) if only one (1) Councillor is present - the Councillor; or
 - (c) if no Councillors are present - the Chief Executive Officer.
- 2.6.4 If a Meeting is adjourned for want of a quorum, the Chief Executive Officer will record in the minutes the reason for the adjournment, the names of any Councillors present, and the date and time to which the Meeting is adjourned to.
- 2.6.5 If a Meeting is adjourned to another day, the Chief Executive Officer must:
 - (a) give notice of the adjourned Meeting to each Councillor setting out the date, time and place of the Meeting; and
 - (b) give notice of the adjourned Meeting to the public by causing a notice setting out the date, time and place of the Meeting to be placed on display at the principal office of Council.

2.7 Presiding Officer

- 2.7.1 The Mayor will preside at a meeting of Council.
- 2.7.2 If the Mayor is absent or unavailable to preside, the Deputy Mayor will preside.
- 2.7.3 If both the Mayor and the Deputy Mayor, are absent or unavailable to preside,

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a Councillor chosen by the Councillors present at the meeting will preside at the meeting.

2.7.4 Council will choose the Chairperson for a Committee meeting. This Chairperson will normally preside over meetings of the Committee.

2.7.5 If the Chairperson of a Committee is absent, a Councillor chosen by the Councillors present will preside over the Committee meeting.

2.8 Order of Business

2.8.1 The order of business shall be determined by resolution of Council. The order of business may be altered for a particular meeting where the Councillors at that meeting pass a motion to that effect.

2.8.2 Unless otherwise altered, the order of business shall be as follows:

- (a) Opening of meeting;
- (b) Present;
- (c) Apologies and granting of leaves of absence;
- (d) Confirmation of Minutes of previous meeting/s;
- (e) Declarations of interest in matters on the agenda;
- (f) Public forums/Deputations;
- (g) Business arising or outstanding from previous meetings;
- (h) Presentation of petitions;
- (i) Mayoral Minute;
- (j) Councillor/Delegate Reports;
- (k) Committee Reports;
- (l) Officers Reports;
- (m) Closed Session;
- (n) Confidential Reports;
- (o) Urgent Business; and
- (p) Closure of meeting.

2.8.3 The unconfirmed minutes of a preceding meeting, whether an ordinary or a special meeting, shall be taken into consideration and confirmed, at the next available ordinary meeting of Council. Any discussion regarding the confirmation of minutes of a previous meeting(s) must be limited to their accuracy as a record of the proceedings.

2.9 Agendas

2.9.1 Items on the Agenda

The agenda may contain the following items:

- (a) Opening of meeting;
- (b) Present;
- (c) Apologies and granting of leaves of absence;
- (d) Confirmation of Minutes of previous meeting/s;
- (e) Declaration of interest in matters on the agenda;

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- (f) Public forums/Deputations
- (g) Business arising or outstanding from previous meetings;
- (h) Presentation of petitions;
- (i) Mayoral Minute;
- (j) Councillor/Delegate Reports;
- (k) Committee Reports;
- (l) Officers Reports;
- (m) Closed session;
- (n) Confidential Reports;
- (o) Urgent business (as approved by the Chairperson); and
- (p) Closure of meeting.

2.9.3 Business not on the Agenda or not fairly arising from the Agenda shall not be considered at any Meeting unless permission for that purpose is given by Council at such meeting. Business must be in accordance with the adopted Terms of Reference for each Committee.

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.

2.10 Petitions

- 2.10.1 Any petition presented to a meeting of Council shall:
- (a) be in legible writing or typewritten and contain a minimum of ten (10) signatures;
 - (b) include the name and contact details of the Principal Petitioner (i.e., one person who is the organiser and who will act as the key contact for the issue);
 - (c) include the postcode of all petitioners, and
 - (d) have the details of the specific request/matter appear on each page of the petition.
- 2.10.2 Only valid petitions in accordance with the Petitions Guideline will generally be accepted by Council. Other petitions will be received at the discretion of Council if deemed appropriate.
- The only motions which will be moved are that:
- (a) the petition be received and referred to a Council Workshop; or
 - (b) the petition be received and contents noted.
- 2.10.3 All petitions received will have a formal response provided by Council to the Principal Petitioner.

2.11 Deputations

- 2.11.1 A person or persons wishing to address a Meeting as a deputation on any matter must apply to the Chief Executive Officer in writing at least ten (10) business days before the day of the Meeting.
- 2.11.2 The Chief Executive Officer, on receiving an application for a deputation shall notify the Chairperson who shall determine whether the deputation may be heard. The Chief Executive Officer shall inform the prospective deputation of the determination in writing. Where it has been determined the deputation will be heard, the Chief Executive Officer will advise deputation members in writing of the meeting details in which their deputation will be presented, including the Deputation Guideline.
- 2.11.3 For deputations comprising three or more persons, only three persons shall be allowed to address Council unless the Councillors at the meeting determine otherwise by resolution.
- 2.11.4 Each deputation will be given the opportunity to address Council for up to a maximum of twenty (20) minutes at the discretion of the Chairperson. This will include fifteen (15) minutes of presentation by the deputies. Councillors will then have the opportunity to ask questions.

following the deputation with a five (5) minute limit.

- 2.11.5 Each deputation will be heard and questioned without debate. No questions will be asked of officers during the deputation, except where clarification may be requested through the Chairperson.
- 2.11.6 The Chairperson may terminate a deputation at any time where:
 - (a) the Chairperson is satisfied that the purpose of the deputation has been sufficiently explained to the Councillors at the meeting;
 - (b) the time period allowed for a deputation has expired; or
 - (c) the person uses insulting or offensive language or is derogatory towards Councillors or staff members; and
 - (d) a person other than the appointed speaker interjects during the deputation without approval.
- 2.11.7 The Chief Executive Officer is responsible for the deputation including where applicable notifying the appointed speaker(s), of any actions arising from the deputation.

2.12 Motions to be Moved

- 2.12.1 With the exception of Procedural Motions, a Councillor is required to move a motion and then another Councillor is required to second the motion.
- 2.12.2 When a motion has been moved and seconded, it shall become subject to the control of Council and shall not be withdrawn without the consent of Council.
- 2.12.3 Other Councillors can propose amendments to the motion which must be voted on before voting on the final motion.
- 2.12.4 A motion brought before a meeting of Council in accordance with the *Local Government Act 2009* or the Meeting Procedures Policy, shall be received and put to the meeting by the Chairperson. The Chairperson may require a motion or amendment to a motion to be stated in full or be in writing before permitting it to be received.

2.13 Absence of a Mover of Motion

- 2.13.1 In the absence of a mover of a motion, the meeting shall move to the next item of business.

2.14 Motion to be Seconded

- 2.14.1 A motion or an amendment to a motion must not be debated at a meeting of Council unless and until the motion or the amendment is seconded, with the exception of Procedural Motions.

2.15 Amendment of Motion

- 2.15.1 An amendment to a motion shall be in terms which maintain or further clarify the intent of the original motion and do not contradict the motion.
- 2.15.2 Not more than one motion or one proposed amendment to a motion may be put before a meeting of Council at any one time.
- 2.15.3 Where an amendment to a motion is before a meeting of Council, no other amendment to the motion shall be considered until after the first amendment has been put.

- 2.15.4 Where a motion is amended by another motion, the original motion shall not be put as a subsequent motion to amend the new motion.

2.16 Speaking to Motions and Amendments

- 2.16.1 The Chairperson will manage the debate by allowing the Councillor who proposed the motion the option of speaking first on the motion. The Chairperson will then call on any Councillor who wishes to speak against the motion and then alternately for and against the motion as available, until all Councillors who wish to speak have had the opportunity.
- 2.16.2 A Councillor may make a request to the Chairperson for further information before or after the motion or amendment is seconded.
- 2.16.3 A motion or amendment may be withdrawn by the mover with the consent of Council, which shall be signified without debate, and a Councillor shall not speak upon such motion or amendment after the mover has been granted permission by Council for its withdrawal.
- 2.16.4 The mover of a motion or amendment shall have the right to reply. Each Councillor shall speak no more than once to the same motion or same amendment except as a right of reply.
- 2.16.5 Each speaker shall be restricted to not more than five (5) minutes unless the Chairperson rules otherwise.
- 2.16.6 Where two or more Councillors indicate they may wish to speak at the same time, the Chairperson shall determine who is entitled to priority.
- 2.16.7 In accordance with section 273 of the *Local Government Regulation 2012*, if a decision made at a meeting is inconsistent with a recommendation or advice given to Council by an advisor of the Council, the minutes of the meeting must include a statement of the reasons for not adopting the recommendation or advice.

2.17 Method of Taking Vote

- 2.17.1 The Chairperson will call for all Councillors in favour of the motion to indicate their support. The Chairperson will then call for all Councillors against the motion to indicate their objection. A Councillor may call for a division to ensure their objection to the motion is recorded in the minutes. The Chairperson shall declare the result of a vote or a division as soon as it has been determined. If a division is taken, the minute secretary shall record the names of Councillors voting in the affirmative and of those voting in the negative.
- 2.17.2 Councillors have the right to request that their names and how they voted be recorded in the minutes.
- 2.17.3 Except upon a motion to repeal or amend it, the resolution shall not be discussed after the vote has been declared.
- 2.17.4 If a report contains distinct recommendations, the decision of Council may be taken separately on each recommendation.

2.18 Repealing or Amending Resolutions

- 2.18.1 A resolution of Council may not be amended or repealed unless notice to amend or repeal is given in accordance with the requirements of the *Local*

Government Act 2009 or the Local Government Regulation 2012.

- 2.18.2 At a meeting at which a motion to repeal or amend a resolution is put, Council may defer consideration of that motion. Such deferral shall not exceed three (3) months.

2.19 Procedural Motions

- 2.19.1 A procedural motion may be moved, without the need for a seconder for one of the following motions at any time or during the debate of a matter:
- (a) that the motion be put;
 - (b) that the debate on the motion and/or amendment be adjourned;
 - (c) that the meeting proceed to the next item of business;
 - (d) that the report/document/issue lay on/be raised from the table;
 - (e) a point of order;
 - (f) a motion of dissent against the Chairpersons ruling;
 - (g) that this report/document be received/not received;
 - (h) to suspend the rule requiring that (insert requirement); and
 - (i) that the meeting stand adjourned/resumed.

Motion be put

- 2.19.2 Any procedural motion must be immediately put, without debate.
- 2.19.3 A procedural motion, that the motion under consideration be put, may be moved. Where such a procedural motion is carried, the Chairperson shall immediately put the motion under consideration. Where such a procedural motion is lost, debate on the motion under consideration shall continue.

Motion or amendment be adjourned

- 2.19.4 The procedural motion, that the motion or amendment now before the meeting be adjourned, may specify a time or date, to which the debate shall be adjourned.
- Where no date or time is specified:
- (a) a further motion may be moved to specify such a time or date, or
 - (b) the matter about which the debate is to be adjourned, shall be included in the agenda for a future meeting.

Meeting proceeds to the next item of business

- 2.19.5 Where a procedural motion, that the meeting proceed to the next item is carried, debate on the matter which is the subject of the motion shall cease.

Matter lay on the table

- 2.19.6 A procedural motion, that a motion lie on the table, shall only be moved where the Chairperson or a Councillor requires additional information on the matter under consideration. Where such a procedural motion is passed, the Council shall proceed with the next matter on the agenda.

Point of order

- 2.19.7 A Councillor may ask the Chairperson to decide on a Point of Order where it is believed that:

- (a) Another Councillor has failed to comply with proper meeting procedures; or
 - (b) A matter before Council is in contravention of the *Local Government Act 2009* or *Local Government Regulation 2012* or any other relevant state or federal legislation; or
 - (c) A resolution before Council is beyond Council's jurisdiction, and therefore ultra vires.
- 2.19.8 Points of Order cannot be used as a means of contradicting a statement made by the Councillor speaking.
- 2.19.9 Where a Point of Order is raised, consideration of the matter to which the Motion was moved will be suspended.
- 2.19.10 The Chairperson will determine whether the Point of Order is upheld or not. The Chairperson may seek the advice of the Chief Executive Officer or another officer in attendance before making such determination.

Motion of Dissent

- 2.19.11 A Councillor may move a motion of dissent in relation to a ruling of the Chairperson on a point of order. Where a Motion of Dissent is carried, the matter to which the ruling of the Chairperson was made will proceed as though that ruling had not been made. Where a Motion of dissent is not carried, the ruling of the Chairperson will stand. This applies to the Chairperson's decision on a procedural motion only and does not apply to decisions on inappropriate and/or disruptive conduct.

Motion to suspend rule

- 2.19.12 A procedural motion, "to suspend the rule requiring that", may be made by any Councillor in order to permit some action which otherwise would be prevented by the Meeting Procedures Policy. A motion to suspend the Meeting Procedures Policy shall specify the duration of such a suspension.

Adjournment/Resumption of Meetings

- 2.19.13 A procedural motion, that the meeting stands adjourned, may be moved by a Councillor. Such a procedural motion will specify a time for the resumption of the meeting. On resumption of the meeting the Council shall continue with the business before the meeting at the point where it was discontinued on the adjournment.

2.20 Minutes

- 2.20.1 Minutes must be kept of all Meetings and all resolutions recorded.
- 2.20.2 At each Meeting, the minutes of the previous Meeting must be confirmed by the Councillors present and be signed by the person presiding at the later Meeting.
- No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.
- A copy of the unconfirmed minutes of each Meeting must be available for inspection by the public and be placed on the Council website within five (5) days after the end of the Meeting.

- 2.20.3 Unless specifically resolved otherwise an audio recording of a Meeting will be made for the purpose of verifying the accuracy of the minutes of the Meeting.

Audio recordings of a Meeting will be kept until minutes are confirmed when they must then be destroyed immediately in accordance with the Local Government Sector Retention and Disposal Schedule.

- 2.20.4 The minutes of a Meeting must include:

- (1) The names of the Councillors present at the Meeting;
- (2) In relation to each Councillor present:
 - (i) The time at which the person entered or left the Meeting; and
 - (ii) Unless the person is present for the whole meeting, the point in the proceedings at which the person entered or left the Meeting;
- (3) Each Motion or Amendment, and the names of the mover and seconder;
- (4) Any variation, alteration or withdrawal of a Motion or Amendment;
- (5) Whether a Motion or Amendment is carried or lost;
- (6) Any disclosure of material personal interest made by a Councillor, in particular:
 - (i) the name of the Councillor who has the material personal interest, in accordance with section 172 of the Act;
 - (ii) the nature of the material personal interest, as described by the Councillor;
 - (iii) whether the Councillor took part in the Meeting or was in the chamber during the Meeting, under an approval under section 172(7) of the Act;
- (7) The name of the Councillor who has a conflict of interest or could reasonably be perceived to have a conflict of interest, pursuant to section 173 of the Act;
 - (i) the nature of the interest, as described by the Councillor;
 - (ii) how the Councillor dealt with the real or perceived conflict of interest;
 - (iii) if the Councillor voted on the matter - how the Councillor voted on the matter;
 - (iv) how the majority of persons who were entitled to vote at the Meeting voted on the matter;
- (8) An account of any personal explanation given by a Councillor;
- (9) Details of the making of an order to close a Meeting under section 275 of the *Local Government Regulation 2012*;
- (10) Details of any adjournment of business;
- (11) A record of any request for documents to be tabled at the Meeting;
- (12) A record of any documents tabled at the Meeting;
- (13) A description of any verbal briefing given to the Meeting on a matter of Council business; and
- (14) Any other matter required to be included in the minutes by or under the Act or any legislation.

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- 2.20.5 The Chief Executive Officer must ensure the minutes of Meetings include a statement of the reasons for not adopting the recommendation or advice under section 273 of the *Local Government Regulation 2012* in the following circumstances:
- (1) The decision is about entering into a contract, the total value of which is more than the greater of:
 - (i) \$200,000 exclusive of GST; or
 - (ii) 1% of Council's net rate and utility charges, as stated in Council's audited financial statements included in Council's most recently adopted annual report; and/or
 - (2) The decision is inconsistent with:
 - (i) The policy or approach ordinarily followed by Council for the type of decision; or
 - (ii) A policy previously adopted by Council by resolution, whether or not as required by the Act and still in force.

2.21 Conduct during Meetings

- 2.21.1 Councillors will conduct themselves in accordance with the principles of the *Local Government Act 2009* and the standards of behaviour set out in the Councillor Interaction with the Organisation Policy. The Chairperson may observe or be made aware of instances of possible unsuitable meeting conduct.
- 2.21.2 After a meeting of Council has been formally constituted and the business commenced, a Councillor shall not leave from such meeting without first notifying the Chairperson. The Chairperson shall not leave such meeting without notifying the Deputy Mayor, or in the absence of the Deputy Mayor, the Councillors.
- 2.21.3 Councillors will, during a Meeting, address:
- (a) Other Councillors by their respective titles, 'Mayor' or 'Councillor'; and
 - (b) Officers by designating them by their respective official title.
- 2.21.4 Officers and people attending the Meeting will address Councillors by their respective titles, 'Mayor' or 'Councillor'.
- 2.21.5 Councillors and officers will confine their remarks to the matter under consideration.
- 2.21.6 No Councillor who is speaking shall be interrupted except upon a point of order being raised either by the Chairperson or by a Councillor.
- 2.21.7 When the Chairperson speaks during the process of a debate, the Councillor then speaking or offering to speak shall immediately cease speaking, and each Councillor present shall preserve strict silence so that the Chairperson may be heard without interruption.
- 2.21.8 Talking on a mobile phone in the meeting place by Councillors and Livingstone Shire Council officers is not permitted.

2.22 Seeking Council's Leave

- 2.22.1 Councillors must seek a leave of absence from Council where a Councillor cannot attend a Meeting for private or business purposes.

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Leave is granted at the discretion of Council.

- 2.22.2 A leave of absence may be granted by Council prior to a Meeting (i.e. at a prior Meeting or at the Meeting itself). An application does not need to be made in person, and as a result, Council may grant such leave while a Councillor is absent.
- 2.22.3 Where a Councillor needs to seek leave from more than one (1) Council Meeting, an application is to be made in writing to the Chief Executive Officer specifying the dates of the Meeting(s) and the reason leave is sought.
- 2.22.4 Where a Councillor intends to attend a Council Meeting when leave has been granted by Council, written notice is to be provided to the Chief Executive Officer prior to the meeting commencing. This notice nullifies any leave previously approved.
- 2.22.5 If a Councillor attends a Council Meeting, for which leave has been granted previously, any future absence requires additional leave to be granted, regardless if the original leave covered any future Meetings.
- 2.22.6 If a Councillor fails to attend two (2) or more consecutive Ordinary Meetings without the local government's leave over a two (2) month period, they will be subject to section 162(1)(e) of the *Local Government Act 2009*.

2.23 Remote Attendance via Teleconference

- 2.23.1 Councillors may seek approval to use a telephone or video conferencing equipment to remotely take part in Council Meeting discussions as they happen.
- 2.23.2 Where a Councillor needs to seek approval for remote attendance via teleconference, an application is to be made in writing to the Chief Executive Officer five (5) days prior to the Council Meeting remote access is sought for.
- 2.23.3 The Chief Executive Officer, on receiving an application for remote attendance via teleconference, will notify the Chairperson of the Meeting who will determine if approval will be granted within two (2) days before the date of the Council Meeting remote access is sought for. The Chief Executive Officer, or their delegate, will inform the requesting Councillor of the determination.
- 2.23.4 A Councillor taking part in a Council Meeting by remote attendance via teleconference is taken to have attended the Meeting if the teleconferencing arrangement was approved and the Councillor was simultaneously in audio contact with each other person at the Meeting.
- 2.23.5 If the Chairperson refuses to allow a Councillor remote attendance via teleconference, the Chairperson must report the decision at the Council Meeting.

2.24 Questions

- 2.24.1 A Councillor may at a Council meeting ask a question for reply by another Councillor or an officer regarding any matter under consideration at the meeting. A question shall be asked categorically and without argument and no discussion shall be permitted at the meeting of Council in relation to a reply or a refusal to reply to the question. A Councillor or officer to whom a question is

asked without notice may request that the question be taken on notice for a future Meeting.

- 2.24.2 A Councillor who asks a question at a meeting, or responds to a question at a meeting, shall be deemed not to have spoken to the debate of the motion to which the question relates.
- 2.24.3 The Chairperson may disallow a question which is considered inconsistent with an acceptable request or good order. In such instances, a Councillor may move a motion that the Chairperson's ruling be disagreed with, and if such motion is carried the Chairperson shall allow the question.

2.25 Disorder

- 2.25.1 The Chairperson may adjourn the meeting of Council, where disorder other than by a Councillor, arises at the meeting. On resumption of the meeting, the Chairperson shall move a motion, which shall be put without debate, to determine whether the meeting shall proceed. Where such a motion is lost, the Chairperson shall declare the meeting closed, and any outstanding matters referred to a future meeting.

2.26 Attendance of Public and the Media at Meetings

- 2.26.1 An area shall be made available at the place where any meeting of Council is to take place for members of the public and representatives of the media to attend the meeting and as many members of the public as reasonably can be accommodated in that area shall be permitted to attend the meeting.
- 2.26.2 When the Council is sitting in Closed Session, the public and representatives of the media shall be excluded.
- 2.26.3 The resolution that Council proceed into Closed Session must specify the nature of the matters to be considered and these matters must be in accordance with section 275 of the *Local Government Regulation 2012*. The Chairperson may direct any persons improperly present to withdraw immediately. Council must not make a resolution (other than a procedural resolution) in a closed session. Council must resolve to move out of closed session so that a resolution can be passed on the matters considered in Closed Session.

2.27 Public Participation at Meetings

- 2.27.1 A member of the public may take part in the proceeding of a meeting only when invited to do so by the Chairperson.
- 2.27.2 In each Meeting, time may be allocated to permit members of the public to address the Council on matters of public interest related to local government. The time allotted shall not exceed fifteen minutes and no more than three speakers shall be permitted to speak at any one meeting. The right of any individual to address the Council during this period shall be at the absolute discretion of Council.
- 2.27.3 If any address or comment is irrelevant, offensive, or unduly long, the Chairperson may require the person to cease making the submission or comment.
- 2.27.4 For any matter arising from such an address, Council may take the following actions:

- (a) refer the matter to a committee;
 - (b) deal with the matter immediately;
 - (c) place the matter on notice for discussion at a future meeting; and
 - (d) note the matter and take no further action.
- 2.27.5 Any person addressing the Council shall stand and act and speak with decorum and frame any remarks in respectful and courteous language.
- 2.27.6 Any person who is considered by the Council or the Mayor to be unsuitably dressed may be directed by the Mayor or Chairperson to immediately withdraw from the meeting. Failure to comply with such a request may be considered an act of disorder.

Part 3 – Councillor Conduct

Unsuitable Meeting Conduct

Unsuitable meeting conduct may include:

- (a) a Councillor behaves in a Council meeting, in a way that intimidates, bullies or harasses a member of the community, another Councillor or a Council employee;
- (b) a Councillor continually interrupts or disrupts a speaker at a Council meeting; and
- (c) a Councillor behaves in an offensive or disorderly way in a Council meeting.

Inappropriate Conduct

Inappropriate conduct may include:

- (a) a Councillor publicly makes derogatory comments about staff;
- (b) a Councillor purports to speak to the media on behalf of Council when not properly authorised under a Council policy;
- (c) a Councillor fails to comply with an order made by the Chairperson of a meeting to leave and stay away from the place at which the meeting is being held; and
- (d) a Councillor has been reprimanded three (3) times in twelve (12) months for interrupting other Councillors during meetings.

Misconduct

Misconduct may include:

- (a) a Councillor knowingly provides false or misleading information during a meeting of the Council in order to affect a decision;
- (b) a Mayor fails to carry out the performance evaluation of the Chief Executive Officer in the manner determined by Council;
- (c) a Councillor releases private information about a member of the community acquired as a Councillor;
- (d) a Councillor directs a Council employee (other than the Mayor directing the Chief Executive Officer or other senior executive employees) to perform a duty;
- (e) a Councillor provides confidential information to the media that came from a closed meeting of Council;
- (f) a Councillor has a reasonable suspicion that another Councillor has a material personal interest or conflict of interest but did not disclose it to the presiding officer when the other Councillor failed to disclose it;
- (g) a Councillor fails to pay a fine ordered by the Tribunal;

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- (h) a Councillor sought assistance or advice from an officer that is not in accordance with Council's acceptable request guidelines; and
- (i) a Councillor uses a Council vehicle for private use that is not authorised by Council's expenses policy.

Corrupt Conduct

Corrupt conduct may include:

- (a) a Councillor fails to declare a material personal interest in a Council meeting;
- (b) a Councillor intentionally fails to update a register of interests in order to hide an interest that could gain a benefit or a loss to the person;
- (c) a Councillor engages in fraud against the Council;
- (d) a Councillor uses information acquired by a Councillor to gain a financial benefit for the Councillor or someone else;
- (e) a Councillor directs a Local Government employee to gain a benefit or cause a detriment to the Councillor or another person; and
- (f) a Councillor engages in the act of stealing against the Local Government.

3.1 Process for dealing with unsuitable meeting conduct by a Councillor in a meeting

When dealing with an instance of unsuitable conduct by a Councillor in a meeting, the following procedures must be followed:

- 3.1.1 The Chairperson must decide whether or not unsuitable meeting conduct has been displayed by a Councillor.
- 3.1.2 If the Chairperson decides the unsuitable meeting conduct has occurred, the Chairperson must consider the severity of the conduct and whether the Councillor has had any previous warnings for unsuitable meeting conduct issued. If the Chairperson decides the conduct is of a serious nature, refer to 3.1.7 for the steps to be taken.
- 3.1.3 If the Chairperson decides unsuitable meeting conduct has occurred but is of a less serious nature, the Chairperson may request the Councillor take remedial actions such as:
 - (a) ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct;
 - (b) apologising for their conduct; and
 - (c) withdrawing their comments.
- 3.1.4 If the Councillor complies with the Chairperson's request for remedial action, no further action is required.
- 3.1.5 If the Councillor fails to comply with the Chairperson's request for remedial action, the Chairperson may warn the Councillor that failing to comply with the request may result in an order being issued.
- 3.1.6 If the Councillor complies with the Chairperson's warning and request for remedial action, no further action is required.
- 3.1.7 If the Councillor still continues to fail to comply with the Chairperson's request for remedial actions, the Chairperson may make one or more of the orders below:

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- (a) An order reprimanding the Councillor for the conduct; and
 - (b) An order requiring the Councillor to leave the meeting, including any area set aside for the public and stay out for the duration of the meeting.
- 3.1.8 If the Councillor fails to comply with an order to leave and stay away from the meeting, the Chairperson can issue an order that the Councillor be removed from the meeting by an appropriate officer. The meeting must be adjourned whilst the Councillor is being removed.
- 3.1.9 Following the completion of the meeting, the Chairperson must ensure:
- (a) details of any order issued is recorded in the minutes of the meeting;
 - (b) if it is the third (3rd) or more order made within a twelve (12) month period against a Councillor or the Councillor has refused to leave following an order issued to leave the meeting, these matters are to be dealt with at a future meeting of Council and treated as inappropriate conduct pursuant to the *Local Government Act 2009*; and
 - (c) the Chief Executive Officer is advised to ensure details of any order made must be updated in the Councillor Conduct Register pursuant to the *Local Government Act 2009*.

Any Councillor aggrieved with an order issued by the Chairperson can move a motion of dissent for parts 3.1.1, 3.1.7 and 3.1.8.

3.2 Meeting process for dealing with suspected inappropriate Conduct which has been referred to a Local Government

Pursuant to section 150A(f) of the *Local Government Act 2009*, after receiving a referral by the Independent Assessor or under paragraph 3.1.9(b) of this document of an instance of suspected inappropriate conduct, Council must complete an investigation into the alleged conduct.

After the completion of the investigation, Council must decide whether the Councillor has engaged in inappropriate conduct in a Council meeting.

When dealing with an instance of suspected inappropriate conduct which has been referred to Council by the Independent Assessor, Council must:

- 3.2.1 Be consistent with the Local Government principle of transparent and accountable decision making in the public interest, by dealing with suspected inappropriate conduct in an open meeting of the Council. Where the complainant or other parties may be adversely affected due to the nature of the complaint, the Council may resolve to go into closed session under section 275 of the *Local Government Regulation 2012*.
- 3.2.2 When deliberating on the issue the subject Councillor must leave the place where the meeting is being held, including any area set aside for the public. Should the complainant be a Councillor, that Councillor must inform the meeting of a personal interest and follow the conflict of interest procedures in Section 3.4.
- 3.2.3 Council should then debate the issue and decide whether the accused Councillor engaged in inappropriate conduct.
- 3.2.4 If Council decides that the subject Councillor has engaged in inappropriate conduct, Council is then required to decide what penalty or penalties from the following orders, if any, to impose on the subject Councillor:

- (a) an order that the Councillor make a public admission that the Councillor has engaged in inappropriate conduct;
 - (b) an order reprimanding the Councillor for the conduct;
 - (c) an order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense;
 - (d) an order that the Councillor be excluded from a stated Council meeting;
 - (e) an order that the Councillor is removed, or must resign, from a position representing Council, other than the office of Councillor, for example, the Councillor is ordered to resign from an appointment representing Council on a State board or committee;
 - (f) an order that if the Councillor engages in the same type of conduct again, it will be treated as misconduct; and
 - (g) an order that the Councillor reimburse Council for all or some of the costs arising from the Councillor's inappropriate conduct.
- 3.2.5 When making an order, Council can take into consideration any previous inappropriate conduct of the Councillor, and any allegation made in the investigation that was admitted, or not challenged and that Council is reasonably satisfied is true.
- 3.2.6 The subject Councillor and where relevant the complainant Councillor, must be invited back into the place where the meeting is being held once a decision has been made.
- 3.2.7 Council must ensure the meeting minutes reflect the resolution made.

3.3 Material Personal Interest

Councillors are ultimately responsible for informing of a material personal interest on matters to be discussed at a Council or committee meeting. When dealing with a material personal interest, Councillors must abide by the following procedures:

- 3.3.1 A Councillor with a material personal interest must inform the meeting of Council of their material personal interest and set out the nature of the interest, including:
- (a) the name of the person or other entity who stands to gain a benefit, or suffer a loss, depending on the outcome of the consideration of the matter at the meeting;
 - (b) how a person or other entity stands to gain the benefit or suffer the loss; and
 - (c) if the person or other entity who stands to gain the benefit or suffer the loss is not the Councillor – the nature of the Councillor's relationship to the person or entity.
- 3.3.2 The Councillor must then leave the place of the meeting and stay away while the matter is being discussed and voted on unless the subject Councillor has Ministerial approval to participate in the matter. The Councillor must not influence or attempt to influence the remaining Councillors to vote on the matter in a particular way.
- 3.3.3 Once the Councillor has left the area where the meeting is being conducted, Council can continue discussing and deciding on the matter at hand.

- 3.3.4 If a Councillor at a meeting reasonably believes, or reasonably suspects that another Councillor has a material personal interest in a matter to be discussed at the meeting and has not informed the meeting about the interest, the Councillor must advise the Chairperson of the meeting, as soon as practicable, about their belief or suspicion, and the facts and circumstances that form the basis of the belief or suspicion.
- 3.3.5 The Chairperson then should ask the Councillor with the suspected material personal interest whether they do in fact have a material personal interest. If that is the case, the Councillor must follow the above procedures from item 3.3.1.
- 3.3.6 In the event the majority of Councillors inform a meeting of a material personal interest regarding a matter:
- (a) Council must resolve to delegate the consideration and decision on the matter, pursuant to section 257 of the *Local Government Act 2009*; or
 - (b) if the matter cannot be delegated under section 257 of the *Local Government Act 2009*, Council should seek Ministerial approval for the Councillors to be able to consider and vote on the matter, subject to any conditions the Minister for Local Government may impose.
- 3.3.7 Where a Councillor informs a meeting of a material personal interest in a matter, the Chairperson must ensure the minutes of the meeting record:
- (a) the name of the Councillor who has a material personal interest in the matter;
 - (b) the material personal interest, including the particulars mentioned by the Councillor regarding the material personal interest; and
 - (c) whether the Councillor participated in the meeting, or was present during the meeting, under an approval granted by the Minister for Local Government.

3.4 Conflict of Interest

Councillors are ultimately responsible for informing of any personal interest where they have a real or perceived conflict of interest on matters to be discussed at Council or committee meetings (other than ordinary business matters). When dealing with a conflict of interest, Councillors must abide by the following procedures:

- 3.4.1 A Councillor with a real or perceived conflict of interest must inform the meeting of their personal interest and set out the nature of the interest, including:
- (a) the nature of the interest;
 - (b) if the Councillor's personal interest arises because of the Councillor's relationship with, or receipt of a gift or benefit from, another person;
 - (c) the name of the other person;
 - (d) the nature of the relationship or value and date of receipt of the gift or benefit received; and
 - (e) the nature of the other person's interests in the matter.
- 3.4.2 The subject Councillor may themselves elect to leave the meeting while the matter is being discussed and voted on due to a perceived conflict of interest or conflict of interest. If the Councillor does not leave the meeting, they may advise the other Councillors why they believe they are able to act in the public

- interest while remaining in the meeting. This could include prior advice from the Integrity Commissioner on the personal interest.
- 3.4.3 The other Councillors entitled to vote at the meeting must then decide whether the subject Councillor has a conflict of interest (including a perceived conflict of interest) in the matter due to their personal interest. A Councillor who has declared a personal interest in relation to a matter, must not vote under section 175E(4) of the *Local Government Act 2009*, as to whether another Councillor may stay in the meeting.
 - 3.4.4 If the other Councillors decide there is no conflict of interest or a perceived conflict of interest, the subject Councillor may remain in the meeting and the meeting may continue.
 - 3.4.5 If the other Councillors decide there is a conflict of interest they must then decide whether the subject Councillor must leave the meeting while the matter is being discussed and voted on or can participate in the meeting in relation to the matter including voting on the matter. If the Councillor must leave the place of the meeting the Councillor must not influence or attempt to influence the remaining Councillors to vote on the matter in a particular way.
 - 3.4.6 When deciding whether a Councillor may stay in a meeting and vote following the decision of a conflict of interest, the other Councillors must consider significant variables including, but not limited to:
 - (a) the size or significance of the benefit the subject Councillor stands to receive or benefit;
 - (b) the benefit the subject Councillor stands to receive versus the benefit the community stands to receive from the potential decision; and
 - (c) the closeness of any relationship the subject Councillor may have with a given person or group.
 - 3.4.7 In making the decision under 3.4.6, it is irrelevant how the subject Councillor intended to vote on the issue or any other issue.
 - 3.4.8 If a Councillor at a meeting reasonably believes, or reasonably suspects that another Councillor has a real or perceived conflict of interest in a matter to be discussed at the meeting and has not informed the meeting about the interest, the Councillor must advise the Chairperson of the meeting, as soon as practicable, about their belief or suspicion, and the facts and circumstances that form the basis of the belief or suspicion.
 - 3.4.9 The Chairperson then should ask the Councillor with the suspected conflict of interest to inform the meeting of any personal interest they have in the matter and follow the above procedures from item 3.4.1.
 - 3.4.10 In the event the majority of Councillors inform of a personal interest in a matter:
 - (a) Council must resolve to delegate the consideration and decision on the matter, pursuant to section 257 of the *Local Government Act 2009*; or
 - (b) if the matter cannot be delegated under the section 257 of the *Local Government Act 2009*, Council should seek Ministerial approval for the Councillors to be able to consider and vote on the matter, subject to any conditions the Minister for Local Government may impose.
 - 3.4.11 Where a Councillor informs a meeting of a personal interest in a matter, the Chairperson must ensure the minutes of the meeting record:

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- (a) the name of the Councillor who has declared the conflict of interest;
- (b) the nature of the personal interest, as described by the Councillor;
- (c) the decisions made under 3.4.3 and 3.4.5 above;
- (d) whether the Councillor participated in the meeting under an approval by the Minister;
- (e) if the Councillor voted on the matter, how they voted; and
- (f) how the majority of Councillors voted on the matter.

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10.1 - ADOPTION OF COUNCIL AND COUNCILLOR RELATED POLICIES

Councillor Interaction with the Organisation Policy

Meeting Date: 30 November 2018

Attachment No: 2



COUNCILLOR INTERACTION WITH THE ORGANISATION POLICY

(STATUTORY POLICY)

1. Scope

The Councillor Interaction with the Organisation Policy (this 'Policy') applies to the Mayor and Councillors of Livingstone Shire Council.

2. Purpose

The purpose of this Policy is to establish and provide a guide for:

- Legal and ethical decision making;
- Councillor requests for information, advice or service;
- Handling of confidential information; and
- Councillor contact with Lobbyist, Developers and Submitters.

3. References (legislation/related documents)

Legislative reference

Crime and Corruption Act 2001
Information Privacy Act 2009
Integrity Act 2009
Local Government Act 2009
Local Government Regulations 2012
Local Government Electoral Act 2011
Public Interest Disclosure Act 2010
Planning Act 2016
Right to Information Act 2009

Related documents

Integrity Management Policy
 Public Interest Disclosure Policy
 Related Party Disclosure Policy

4. Definitions

To assist in interpretation, the following definitions shall apply:

Act	<i>Local Government Act 2009.</i>
CEO	Chief Executive Officer
Conflict of Interest	A conflict of interest is a conflict between a Councillor's personal interests and the public interest, which might lead to a decision that is contrary to the public interest.
Council	Livingstone Shire Council.

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Councillor/s	The Mayor and Councillors of Livingstone Shire Council, within the meaning of the <i>Local Government Act 2009</i> .
Councillor Code of Conduct	Means, the provisions contained in Part 2 of this Policy.
Developer	Includes an individual or entity acting on behalf of development application and/or a development approval. If the entity is a body corporate, the term includes officer holders and employees of the applicant. If the entity is a partnership, the term includes partners and employees of the applicant.
Development Application	The same meaning as defined in the <i>Planning Act 2016</i> .
Development Approval	The same meaning as defined in the <i>Planning Act 2016</i> .
Information	Comes in any number of forms including letters, reports/documents, facsimiles, attachments, tapes, emails, electronic media and/or other forms of information including discussions during meetings.
Lobbyist	The same meaning as defined in the <i>Integrity Act 2009</i> .
Material Personal Interest	A material personal interest includes interests that may result in a direct or indirect benefit or loss to the Councillor, a related person, a close associate or a prescribed entity.
Portfolio Councillor / Portfolio Holder	A Councillor who has been allocated portfolio responsibility for a Council function(s).
Regulation	<i>Local Government Regulation 2012</i> .
Related Party Transaction	In accordance with Council's Related Party Disclosure Policy, a related party transaction is a transfer of resources, services or obligations between Council and a related party, regardless of whether a price is charged.
Release of Confidential Information	Includes orally telling any person about the information or any part of the information, or providing the original or a copy of documentation or any part of the documentation that is marked confidential, or paraphrasing (putting into your own words) any confidential information and providing that in writing or orally.
Senior Executive Employees	An employee of the local government who reports directly to the Chief Executive Officer and whose position would ordinarily be considered to be a senior position in the local government's corporate structure. Senior executive employees are known as Executive Directors and Chief Officers in accordance with the Livingstone Shire Council organisational structure.
Submitter	The same meaning as defined in the <i>Planning Act 2016</i> .
Tribunal	Councillor Complaints Tribunal

5. Policy Statement

This Policy is in six parts:

Part 1 - Context Relevant to this Policy

Part 2 - Councillor Code of Conduct

Part 3 - Defining Confidential Information as it applies to Councillors

Part 4 - General Information Requests by Councillors

Part 5 - Councillor Requests for Service

Part 6 - Councillor Contact with Lobbyists, Developers & Submitters

Part 1 - Context Relevant to this Policy

1.1 Local Government Principles

This Policy demonstrates Council's commitment to the following local government principles contained in the *Local Government Act 2009*:

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

1.2 Council's Values

Council is committed to ensuring its practices and behaviours align with organisational values, namely:

- (a) Accountability
- (b) Teamwork
- (c) Community
- (d) Potential
- (e) Positivity

Part 2 - Councillor Code of Conduct

The Councillor Code of Conduct ("Code") sets out the standards of behaviour expected of Councillors of the Livingstone Shire Council in the performance of their duties.

The Code has been adopted by resolution of Council and is deemed to be a 'Procedure' for the purposes of section 176(4) of the Act.

2.1 Roles and Responsibilities of Elected Members

2.1.1 Councillors

The responsibilities of a Councillor under section 12(3) of the Act are:

- (a) Ensuring the local government:
 - (i) discharges its responsibilities under the Act;
 - (ii) achieves its corporate plan; and

- (iii) complies with all laws that apply to local governments;
- (b) Providing high quality leadership to the local government and the community;
- (c) Participating in council meetings, policy development, and decision making, for the benefit of the local government area; and
- (d) Being accountable to the community for the local government's performance.

When performing a responsibility, a Councillor must serve the overall public interest of the whole local government area.

2.1.2 Mayor

Over and above the responsibilities of a Councillor, the Mayor has additional responsibilities, as detailed under section 12(4) of the Act, which are:

- (a) Leading and managing meetings of the local government at which the mayor is the chairperson, including managing the conduct of the participants at the meetings;
- (b) Preparing a budget to present to the local government;
- (c) Leading, managing and providing strategic direction to the Chief Executive Officer in order to achieve the high quality administration of the local government;
- (d) Directing the chief executive officer and senior executive employees, in accordance with the local government's policies;
- (e) Conducting a performance appraisal of the Chief Executive Officer, at least annually, in the way that is decided by the local government (including as a member of a committee for example);
- (f) Ensuring that the local government promptly provides the Minister with the information about the local government area, or the local government, that is requested by the Minister;
- (g) Being a member of each standing committee of the local government; and
- (h) Representing the local government at ceremonial or civic functions.

Furthermore, the Mayor must be a member of a panel to appoint senior executive employees, and maintain a register of interests of the Chief Executive Officer and persons related to the Chief Executive Officer.

2.1.3 Deputy Mayor

The Deputy Mayor will act for the Mayor during the absence or temporary incapacity of the Mayor, or if there is a vacancy in the office of the Mayor. During times the Deputy Mayor is acting Mayor, they must adhere to all the responsibilities and legislative requirements of the Mayor.

Additionally, in accordance with section 196(4)(c)(ii) of the Act, the Deputy Mayor must be a member of a panel to appoint senior executive employees if the employee will not report to only one committee of the local government. The Deputy Mayor may delegate the responsibility of being a panel member to another Councillor within Council.

2.2 Ethical and Legal Obligations

In exercising their powers and responsibilities Councillors must:

- (a) Comply with their obligations under the *Local Government Act 2009*, *Local Government Regulations*, *Integrity Act 2009*, *Information Privacy Act 2009* and any other applicable legislation, Council policy or procedure pertaining to the exercise of their duties, in particular Council's Meeting Procedures Policy, Media Policy, Councillor Facilities and Expenses Policy, Related Party Disclosure Policy and Caretaker Period Policy;
- (b) Conduct themselves in a way that is impartial, promotes and maintains the public's trust and confidence in the Council and the good rule and government of the Livingstone Shire;
- (c) Ensure their personal conduct does not reflect adversely on the reputation of Council;
- (d) Demonstrate respect for fellow Councillors, Council employees and other members of the public;
- (e) Not engage in conduct or behaviour that is harassing, bullying, intimidating or discriminatory towards any fellow Councillors, Council employees or member of the public;
- (f) Not provide any direction to any Council employee, with the exception of the Mayor who may direct the Chief Executive Officer and/or senior executive employees;
- (g) When communicating with the public or the media, make it clear when they are expressing a personal opinion and when they are speaking on behalf of Council;
- (h) When communicating with the public or the media to express a personal opinion about a Council resolution, respect the democratic process by first acknowledging that Council resolutions represent the majority view of Council;
- (i) Exercise care to protect privacy of information gained in the course of carrying out their duties that is confidential to Council and to not misuse this information in any way, including for personal gain;
- (j) Contribute to the provision of a safe work environment including taking care for their own health and safety and the safety of others under the *Work Health and Safety Act 2011*;
- (k) Disclose any gifts received in their capacity as a Councillor or prospective Councillor as required by the Act, Regulation, *Local Government Electoral Act 2011* or any Council policy;
- (l) Disclose any material personal interest that may influence their voting at Council meetings for a particular matter, unless the matter is an ordinary business matter in accordance with Council's Meeting Procedure Policy;
- (m) Declare conflicts of interest (whether real or perceived) as they arise and in accordance with Council's Meeting Procedure Policy;
- (n) Disclose related parties in accordance with the Related Party Disclosure Policy; and
- (o) Maintain a register of the Councillor's interests.

2.3 Decision Making

In making decisions, Councillors are expected to:

- (a) Attend all Council Meetings (unless a leave of absence is obtained);

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- (b) Sufficiently prepare for meetings so as to enable effective engagement and contribution towards discussion;
- (c) Act in a fair and transparent manner and ensure decision making is in the public interest;
- (d) Ensure public confidence in the local government decision making process by taking steps to avoid, resolve or disclose external influences, material personal interests and/or conflicts of interest; and
- (e) Maintain confidence of information obtained.

2.4 Appropriate Use of Resources

Councillors are obligated to ensure Council resources are used appropriately and only in the public interest. Councillors recognise and accept that they must:

- (a) Comply with Council's requirements about entitlements provided for under the local government's policies, for example, all requirements relating to expense reimbursements and expense claims must be complied with;
- (b) Not use Council resources for personal use, for example, election material;
- (c) Not request information or assistance from Council employees unless a request for information or access to Council's system be made in writing to the CEO or nominee and authorised by the CEO or nominee; and
- (d) Take reasonable care in their use of Council equipment and resources.

2.5 Breach of this Code

Inappropriate conduct is defined in section 176(4) of the Act, as conduct that is not appropriate conduct for a representative of a local government, but does not constitute misconduct, including for example:

- (a) A Councillor failing to comply with the local government's procedures; or
- (b) A Councillor behaving in an offensive or disorderly way in a meeting of the local government or any of its committees.

Therefore, a breach of this Code is regarded as inappropriate conduct and the Act provides for penalties that may be imposed on Councillors.

Depending on the nature of the breach, the conduct may constitute misconduct under the section 176(3) of the Act or corrupt conduct under section 15 of the *Crime and Corruption Act 2001*.

Councillors acknowledge that complaints about a breach of this Code should be directed to the CEO.

A complaint about the conduct of a Councillor must be submitted to the Independent Assessor who will assess the complaint and determine the category of the allegation.

In order of least serious, the categories of complaint are corrupt conduct, misconduct, inappropriate conduct and unsuitable meeting conduct.

Corrupt conduct may include:

- (a) a Councillor fails to declare a material personal interest in a Council meeting;
- (b) a Councillor intentionally fails to update a register of interests in order to hide an interest that could gain a benefit or a loss to the person;
- (c) a Councillor engages in fraud against the Council;
- (d) a Councillor uses information acquired by a Councillor to gain a financial

benefit for the Councillor or someone else;

- (e) a Councillor directs a Local Government employee to gain a benefit or cause a detriment to the Councillor or another person; and
- (f) a Councillor engages in the act of stealing against the Local Government.

Misconduct may include:

- (a) a Councillor knowingly provides false or misleading information during a meeting of the Council in order to affect a decision;
- (b) a Mayor fails to carry out the performance evaluation of the Chief Executive Officer in the manner determined by Council;
- (c) a Councillor releases private information about a member of the community acquired as a Councillor;
- (d) a Councillor directs a Council employee (other than the Mayor directing the Chief Executive Officer or other senior executive employees) to perform a duty;
- (e) a Councillor provides confidential information to the media that came from a closed meeting of Council;
- (f) a Councillor has a reasonable suspicion that another Councillor has a material personal interest or conflict of interest but did not disclose it to the presiding officer when the other Councillor failed to disclose it;
- (g) a Councillor fails to pay a fine ordered by the Tribunal;
- (h) a Councillor sought assistance or advice from an officer that is not in accordance with Council's acceptable request guidelines; and
- (i) a Councillor uses a Council vehicle for private use that is not authorised by Council's expenses policy.

Inappropriate conduct may include:

- (a) a Councillor publicly makes derogatory comments about staff;
- (b) a Councillor purports to speak to the media on behalf of Council when not properly authorised under a Council policy;
- (c) a Councillor fails to comply with an order made by the Chairperson of a meeting to leave and stay away from the place at which the meeting is being held; and
- (d) a Councillor has been reprimanded three (3) times in twelve (12) months for interrupting other Councillors during meetings.

Unsuitable meeting conduct may include:

- (a) a Councillor behaves in a Council meeting, in a way that intimidates, bullies or harasses a member of the community, another Councillor or a Council employee;
- (b) a Councillor continually interrupts or disrupts a speaker at a Council meeting; and
- (c) a Councillor behaves in an offensive or disorderly way in a Council meeting.

2.6 Access to Council Buildings

Councillors acknowledge they will be provided with swipe card access to the Council Chambers, the Councillors meeting room and the Lagoon Place office to provide access to the Office of the CEO, and to the Councillor Support Officers.

Councillors (apart from the Mayor) must not enter staff-only areas of Council buildings without making prior arrangements through the Office of the CEO, or by invitation from senior executive officers.

2.7 Changes to this Code

This Code is to remain in force until otherwise amended/replaced by resolution of the Council.

Part 3 – Defining Confidential Information as it applies to Councillors

3.1 Purpose

This Policy provides guidance to Councillors in complying with section 171(3) of the Act regarding the proper handling of confidential information. This Policy aims to assist Councillors in determining what might be considered confidential information and how this information should be handled.

This Policy does not override an individual Councillor's statutory obligations in respect of the use of information, nor does it override Council's obligations under the Act or any other legislation or subordinate legislation to disclose or publish information where this is required by law.

3.2 Legislative Context

Section 171(3) of the Act sets out provisions relating to the release of confidential information by Councillors. It states:

"A councillor must not release information that the councillor knows, or should reasonably know, is information that is confidential to the local government."

Note: A contravention of subsection (3) is misconduct that is dealt with by the tribunal.

3.3 Responsibilities of Councillors

It is expected that Councillors will be in receipt of confidential information in the course of undertaking their role. It is important that such information is treated in a manner so as not to harm, prejudice or compromise the interests of Council or any individual or organisation, or enable any individual or organisation to gain a financial advantage.

Councillors are expected to:

- (a) Exercise due care when handling or using information acquired in their role as a Councillor;
- (b) Accept that there will be information that must be treated as confidential because to release it would reduce public trust and confidence in the integrity of the Council;
- (c) Acknowledge that disclosure of confidential information constitutes a breach of the Act;
- (d) If uncertain, presume information is confidential, and seek advice from the CEO prior to any release of it;
- (e) Not disclose and to use their best endeavours to prevent disclosure of confidential information to any person or organisation, specifically:
 - (i) avoiding discussing confidential Council information with family, friends and business associates; and
 - (ii) ensuring documents containing confidential information are

properly safeguarded at all times, including materials stored at private or business residences.

3.4 Confidential Information

While not exhaustive, the following types of information are deemed to be confidential to Council unless or until Council resolves to the contrary:

- (a) Commercial in confidence information including where the release of information would affect a third party's competitive advantage (i.e. this is particularly relevant in a competitive tender situation);
- (b) Information derived from government departments or ministers that has been classified as confidential;
- (c) Information of a personal nature or about personal affairs, for example the personal details of Councillors or council staff;
- (d) Information relating to a property disposal or acquisition process where release of the information may prejudice Council;
- (e) Financial and legal analysis where the disclosure of that information may compromise Council or another individual/organisation;
- (f) Information that could result in action being taken against Council for defamation;
- (g) Information involving legal advice to Council or a legal issue or a matter before the courts;
- (h) Information that is expressly given to Councillors in confidence;
- (i) Information about:
 - (i) the appointment, dismissal or discipline of employees;
 - (ii) industrial matters affecting employees;
 - (iii) Council's budget;
 - (iv) rating concessions;
 - (v) contracts proposed to be made by Council; and
 - (vi) starting or defending legal proceedings involving Council;
- (j) An item on a meeting agenda including the information contained in the documentation or supporting material that is declared confidential by the CEO; and
- (k) Information examined or discussed at Council Briefing Sessions, unless it has been clearly identified as not being confidential; all information in relation to any matters discussed during closed Council meetings under section 275 of the Regulation.

It is acknowledged that some of the above classes of information may need to be disclosed from time to time for legal proceedings or in accordance with the *Right to Information Act 2009* or *Information Privacy Act 2009*.

3.5 Breach of Confidentiality Complaint

A person may make a complaint about a breach by a Councillor of section 171(3) of the Act by giving notice of the complaint to the Council's CEO. A breach of section 171(3) may constitute "misconduct" (see the definition of "misconduct" in section 176(3)(c) of the Act).

Part 4 - General Information Requests by Councillors

4.1 Introduction and Purpose

This Policy constitutes 'acceptable requests guidelines' for the purposes of section 170A(6) of the Act. The section prescribes the process for Councillors to request assistance from local government employees in order to carry out their responsibilities under the Act and sets reasonable limits on such requests. These are dealt with as General Information Requests under this Policy.

In accordance with the provisions of section 170A(4) of the Act, Part 4 of this Policy does not apply to requests made by the Mayor or the Chairperson of a committee if the request relates to the role of the Chairperson.

4.2 The Role of the CEO as the Custodian of Council Documents

The CEO has the statutory responsibility under section 13(3)(e) of the Act for the safe custody of:

- (a) All records about the proceedings, accounts or transactions of the local government or its committees; and
- (b) All documents owned or held by the local government.

The CEO also has the statutory responsibility under section 13(3)(f) of the Act to comply with the following reasonable requests from Councillors:

- (a) For advice, to assist the Councillor in carrying out their role as a Councillor; or
- (b) For information relating to the local government that the local government has access to.

4.3 Where General Requests are to be Directed

All general requests for information under this Policy should be made to:

- (a) The CEO; or
- (b) A Executive Director; or
- (c) A Chief Officer; or
- (d) A Councillor Support Officer; or
- (e) Another officer nominated by the CEO.

4.4 Information which cannot be Sought Under this Policy

Section 170A(3) of the Act specifically provides that the following requests cannot be provided to a Councillor:

- (a) A record of the regional conduct review panel; or
- (b) If disclosure of the information to the Council would be contrary to an order of the court or tribunal; or
- (c) That which would be privileged from production in a legal proceeding on the ground of legal professional privilege.

This Policy acknowledges that the CEO has confidentiality obligations under a number of various Acts and must not disclose documents to Councillors in the circumstances provided by specific obligations under that other legislation. This includes, but is not limited to:

- (a) The obligation to not disclose confidential information gained by the CEO, an authorised person of Council or another person involved in

administering the *Food Act 2006* in respect of information gained in administering or performing a function under the *Food Act 2006* (or its predecessor);

- (b) The confidentiality obligations associated with a public interest disclosure under the *Public Interest Disclosure Act 2010*;
- (c) Information which the Crime and Corruption Commission requires to be kept confidential under the *Crime and Corruption Act 2001*; and
- (d) Council's obligations associated with restrictions on disclosure of personal information under the *Information Privacy Act 2009*.

4.5 Publicly Available Information

A Councillor should not make a request for information under this Policy if the information is able to be obtained from publicly available sources (including Council's website).

4.6 How a Request is Made

Whilst informal requests for information may be made verbally, a request will only be considered formally under this Policy if it is made in writing (including email).

4.7 Deciding and Responding to Requests

The CEO will ensure that all reasonable endeavours are made to address all requests made under this Policy expeditiously. Requests made in writing will be responded to in writing. If the information is constrained or not provided then the advice shall state the reason for such constraint or non-provision.

If in the opinion of the CEO, the information request is such that significant resources of the organisation will be diverted to collate the information, the CEO will refer the matter to the next available meeting of the Council for direction. The direction given by Council will be final.

The CEO will ensure that the Mayor and all Councillors receive a copy of the response given to all requests made under the Policy.

Part 5 – Councillor Requests for Service

5.1 Introduction and Purpose

This Part outlines the process for Councillors lodging requests for service on behalf of themselves or their constituents.

5.2 Residents have a Request for Service capability

Council has an efficient system in place for ratepayers, residents and members of the public to lodge requests for service directly with Council. Councillors are encouraged to ask constituents to register their request directly with Council and to escalate their concerns to Councillors only in the event they do not receive a satisfactory response.

5.3 Where a Request for Service is to be Directed

All requests for service under this Policy should be made to a nominated Councillor Support Officer. Urgent requests should be directed to the CEO or the relevant Executive Director or Chief Officer who will ensure that the request is logged in the Customer Request System.

All requests for service lodged by the Mayor or Councillors will be registered in the customer service system under the name of the Mayor or Councillor making the request. The Mayor or Councillors may request that a third party

receive a response in addition to the Mayor or Councillor/s making the request.

A register will be kept of all requests made by the Mayor or Councillors under their name and the status of each request shall be compiled into a list on a monthly basis and be made available to all elected members.

5.4 Requests Requiring a Budget Allocation or Emergent Expenditure

When a request from the Mayor or a Councillor has been assessed as requiring an allocation of funds beyond what has been provided for in Council's adopted budget, the issue will be referred to the relevant Executive Director or Chief Officer to prepare a report to Council for determination.

Part 6 – Councillor Contact with Lobbyists, Developers and Submitters

6.1 Introduction

Free and open access to Councillors and Council itself, is vital to efficient and effective local government.

Contact with Councillors is undertaken by many people in the community in relation to a broad range of matters. Lobbyists, developers and submitters seek access to Councillors to discuss potential and existing development applications. The public has a clear expectation that such contact is carried out ethically and transparently.

This Policy is in addition to the requirements and processes imposed upon Councillors and lobbyists by the *Integrity Act 2009* (e.g. the requirement for lobbyists to be registered before undertaking lobbying activities).

6.2 Exchanges with Potential Developers, Lobbyists or Submitters in the Pre-Application Phase

It is expected that Councillors will encourage responsible and appropriate development in Council's local government area. Councillors should not feel inhibited in any communications with potential developers and lobbyists (for a potential development), in promoting the benefits of developing in Council's local government area.

In dealings with developers, lobbyists or submitters for a particular potential development, Councillors should:

- (a) Clarify that any opinion they give is personal and does not in any way represent the Council's attitude (positive or negative) to the proposal;
- (b) Encourage them to seek independent professional advice; and
- (c) Encourage them to seek preliminary advice on their proposal by arranging a pre-lodgement meeting with Council staff.

It is recommended that Councillors keep appropriate diary notes of the date, time and details of such dealings.

6.3 Exchanges with Developers, Lobbyists or Submitters in the Post Application Phase

Once an objector/submitter has formally lodged a submission, Councillors will decline all invitations to meet or discuss their submission on a one-on-one basis with them. The request should be referred to the Liveability and Wellbeing portfolio which will set a date, time and venue for a meeting involving available elected members and officers. At least seven (7) days' notice in advance shall be given to all parties, if practicable.

Until such time that the objector/submitter formally lodges a submission, the protocol as outlined above for the pre-lodgement phase will apply. If a group of potential objectors/submitters wish to meet with a Councillor or Councillors, then the protocol which applies to developers/lobbyists once a formal application is received shall apply.

Once an appeal is lodged with the Court in respect of a development application, all parties to the appeal should lodge requests through their legal representative who will co-ordinate discussions through Council's legal advisors.

This protocol does not apply to applications for development approval where Council is not the decision maker in respect of the matter (e.g. applications for development where the relevant State Minister is the decision maker).

6. Changes to this Policy

This Policy is to remain in force until otherwise amended/replaced by resolution of the Council.

7. Repeals/Amendments

This Policy repeals the former Livingstone Shire Council Policy titled 'Councillor Interaction with the Organisation Policy v2'.

Version	Date	Action
1	03/01/2014	Adopted
2	31/03/2016	Amended Policy Adopted
2.1	27/08/2018	Administrative Amendments – reflect organisational restructure and update Chief Executive Officer
3	DRAFT	

CHRIS MURDOCH
CHIEF EXECUTIVE OFFICER

10.1 - ADOPTION OF COUNCIL AND COUNCILLOR RELATED POLICIES

Briefing Sessions Policy

Meeting Date: 30 November 2018

Attachment No: 3



COUNCILLOR BRIEFING SESSION POLICY (COMMUNITY POLICY)

1. Scope

The Councillor Briefing Sessions Policy (this 'Policy') applies to all Councillors and employees of Livingstone Shire Council and is to be applied during all Council Briefing Sessions and informal meetings.

2. Purpose

The purpose of this Policy is to establish guidelines for the conduct of non-decision making discussion forums, which creates an opportunity for:

1. Councillors and Officers to discuss matters and obtain and exchange information; and for
2. Councillors to otherwise better inform themselves as to:
 - (a) the implementation of previous decisions of Council;
 - (b) the ongoing operations of Council;
 - (c) matters coming before future Council meetings; and
 - (d) matters raised for possible inclusion in Council meetings.

3. References (legislation/related documents)

Legislative reference

Crime and Corruption Act 2001

Local Government Act 2009

Related documents

Code of Conduct

Councillor Interaction with the Organisation Policy

Information Security Policy

Integrity Management Policy

Meeting Procedures Policy

Right to Information Policy

4. Definitions

To assist in interpretation, the following definitions shall apply:

Briefing Session	Non-decision making forums convened by the CEO or Mayor that create an opportunity for Councillors and officers to discuss matters of proposed policy or other strategic issues, as well as providing a forum for Councillors to be made aware of issues of significance to the organisation and/or to the community.
Chief Executive Officer	A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> .

Councillor Briefing Sessions Policy

Adopted/Approved: Draft

Version: 1

Portfolio: Office of the CEO
Business Unit: Finance and Business Excellence

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Councillors	The Mayor and Councillors of Livingstone Shire Council, within the meaning of the <i>Local Government Act 2009</i> .
Day	Business Day.
Informal meetings	Informal gatherings, Briefing Sessions, planning sessions and other discussions are those gatherings that are arranged by the Council, the Mayor or CEO that are used solely for the purpose of information sharing and not for the purpose of debating issues, building consensus positions or otherwise discharging Council's deliberative and decision making functions.

5. Policy Statement

Transparent meeting procedures underpin representative democracy and ensure public confidence in Council's decision making process. Briefing Sessions and informal meetings are intended to provide a valuable opportunity to enhance the decision making process by providing an opportunity for Councillors to ask questions and seek clarification of information prior to formal meetings.

This Policy provides direction and leadership to Councillors and Council officers on the conduct and value of informal Briefing Sessions and other informal meetings.

This Policy aligns with the State Government *Guidelines for the conduct of informal briefing sessions by local governments* and is consistent with the Local Government Principles identified in section 4 of the *Local Government Act 2009*.

5.1 Intent

The principal functions of Briefings Sessions or informal meetings are to:

- (a) share information (rather than for the purpose of debating issues or otherwise discharging Council's deliberative and decision making functions);
- (b) provide officers with the opportunity to advise Councillors of their professional opinion and intended recommendations on matters;
- (c) provide Councillors with the opportunity to seek clarification on matters;
- (d) provide updates prior to a formal Council meeting;
- (e) provide an opportunity for the Chief Executive Officer and senior Council officers to address any Councillor questions and provide additional background;
- (f) receive deputations from members of the community if the deputation is for an information session or to brief Councillors on a matter that does not require a decision to be made; and
- (g) receive presentations from external parties assisting Council.

5.1.1 Briefing Sessions and informal meetings provide the necessary background information to enable Councillors to more effectively discuss and debate complex issues during subsequent formal meetings.

5.1.2 Formal decisions or implied decisions are not to be made at Briefing Sessions or informal meetings.

5.1.3 Debate or discussion between Councillors which results in consensus building is not to be conducted.

5.1.4 Councillors need to be aware of their responsibilities with regard to the *Local Government Act 2009* and its associated regulations and must refrain from consensus building or participating in the formation of decisions at Briefing Sessions and informal Council meetings.

5.1.5 Any matters requiring a Council decision that are discussed in informal

Briefing Sessions with Councillors (that is matters not able to dealt with by a Council Officer under delegated authority) will be reported by the responsible officer to a meeting of Council for determination.

- 5.1.6 The Briefing Sessions are not formal meetings of Council and are not open to the public unless otherwise invited.
- 5.1.7 Councillors must inform the Briefing Session or informal meeting of any conflicts of interest and material personal interest of any matters being discussed. This requirement recognises that discussion at informal Briefing Session may influence Councillors when deciding a matter at a Council meeting. Whilst no decisions are made during Briefing Sessions or informal meetings, the Chief Executive Officer will keep records of these declarations. This will ensure that a transparent and effective process is maintained and the ethical and legal behavior of Councillors and local government employees is upheld.

5.2 Schedule

- 5.2.1 Briefing Sessions shall be held in accordance with the Council meeting calendar.
- 5.2.2 In the event of there being no business formally listed, the Briefing Session will not convene and the Office of the CEO shall advise Councillors of the cancellation as soon as practicable.
- 5.2.3 The Mayor or CEO may call Briefing Sessions as necessary for discussion of emergent matters.
- 5.2.4 If an Executive Director or Chief Officer believes it is necessary to schedule a Briefing Session with Councillors outside of the scheduled Briefing Sessions, the Executive Director or Chief Officer shall liaise with the Chief Executive Officer who shall decide whether to call a Briefing Session.

5.3 Participants

- 5.3.1 Briefing Sessions are generally attended by all Councillors, the CEO (or a delegate of the CEO), Executive Leadership Team, any Managers or other officers who have an interest in an item on the agenda and any other relevant officers.
- 5.3.2 While no quorum is required, however consideration should be given to the usefulness of holding the Briefing Session given the matters to be discussed.
- 5.3.3 External persons may attend Briefing Sessions upon invitation from the Mayor or CEO. If an external person (for example a consultant, contractor or guest) is to be present at the Briefing Session, the person's name, title and company shall be included on the Agenda.
- 5.3.4 An external person who will be attending a Briefing Session shall only be present at the Briefing Session during discussion of the agenda item for which their name appears next to on the agenda.

5.4 Chairperson

- 5.4.1 The Chief Executive Officer shall chair the Briefing Sessions. In the event that the Chief Executive Officer is not present, another member of the Executive Leadership Team shall chair the Briefing Session.
- 5.4.2 The Chairperson shall assume responsibility for the good governance and order of the meeting. The Chairperson, is responsible for determining the order of business of the agenda.

5.5 Administration

5.5.1 Briefing Session agendas may contain:

- (a) Declaration of Interest in matters on the agenda;
- (b) Deputations;
- (c) Planning, Finance, Innovation and Business Excellence Portfolio briefings;
- (d) Community Development and Support and Senior Citizens Portfolio briefings;
- (e) Economic Development, Major Projects, Government Liaison and International Relationships and Disaster Management Portfolio briefings;
- (f) Library, Arts and Culture, Sport and Recreation and Youth Advisory Portfolio briefings;
- (g) Municipal Infrastructure Portfolio briefings;
- (h) Parks, Open Space and the Environment Portfolio briefings; and
- (i) Recycling and Waste Management, Water Cycle and Local Laws Portfolio briefings.

5.5.2 Portfolio reports may be considered on a range of functions. Refer to Appendix A for a non-exhaustive list of functions which are included in each portfolio.

5.5.3 A Councillor wishing to place an item on the agenda for a future Briefing Session must apply in writing to the Chief Executive Officer who will action generally within fifteen (15) business days before the day of the Briefing Session. 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.

5.5.4 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.

5.5.5 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.

5.5.6 The Chief Executive Officer will review submitted items from Councillors and will determine if it is to be included. If the item is not included on the agenda, the Chief Executive Officer will advise the relevant Councillor as to the reason/s why the item has not been included in the agenda at least five (5) working days before the Council Briefing Session is scheduled.

5.5.7 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 Officer; and
- (d) Supporting documentation for recommendations.

5.5.8 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.

- 5.5.9** For each agenda item, the Agenda shall state the title of the item, the name of the officer who will lead the discussion, the time allotted to each agenda item and whether a report is attached.
- 5.5.10** Where (due to urgency or timing of availability of information) no briefing or agenda has been circulated prior to the Briefing Session, the responsible Executive Director or Chief Officer shall provide hard copies of the briefing note to each Councillor at the Briefing Session with an additional copy provided to the Office of the CEO to distribute to Councillors not present at the Briefing Session.
- 5.5.11** The agenda for the Briefing Sessions will be distributed at least two (2) days prior to the Briefing Session.
- 5.5.12** Briefing Session summaries must have a clear statement identifying the aims of the briefing, such as:

Option 1 – Operation Action

This report is for the briefing of Councillors prior to the matter being dealt with operationally.

Option 2 – Council Resolution Required

This report is for the briefing of Councillors prior to consideration of the matter to a future Council meeting.

Option 3 – Seeking input from Councillors

- *This report is seeking to discuss options on [] issue; or*
- *This report is seeking feedback with regard to [] issue; or*
- *This report is seeking to identify if any further clarification Council may require with regard to [] agenda item.*

- 5.5.13** Minutes of discussion at the Briefing Session will not be recorded as Briefing Sessions are an informal meeting and no decisions are taken. Notes for the benefit of officers will however be recorded.
- 5.5.10** Some matters raised during Briefing Sessions may be appropriately identified as confidential, however it is unnecessary and not best practice to have a 'blanket' policy which identifies all canvassed issues as confidential. Council has a number of policies that set out the legislative obligations and functions dealing with confidential information.

6. Changes to this Policy

This Policy is to remain in force until any of the following occur:

1. The related information is amended/replaced; or
2. Other circumstances as determined from time to time by the Council.

7. Repeals/Amendments

Version	Date	Action
1	Draft	

CHRIS MURDOCH
CHIEF EXECUTIVE OFFICER

Appendix A – Councillor Portfolio Functions

Portfolio	Function
Community Development and Support and Senior Citizens	<ul style="list-style-type: none"> • community centre • social planning • community engagement • community resilience and capacity • community development • cultural activities and events • crime prevention and community safety • aged services
Economic Development, Major Projects, Government Liaison and International Relations and Disaster Management	<ul style="list-style-type: none"> • economic development • major projects • government liaison • international relations • disaster management
Library, Arts and Culture, Sport and Recreation, and Youth Advisory	<ul style="list-style-type: none"> • library services and programmes • development and promotion of arts and cultural initiatives • regional arts development fund • formal sport and recreation, including club sustainability and governance • informal sport and recreation, including active communities • swimming pools • lease of parks and grounds to sporting clubs and other user groups • youth services and programmes
Municipal Infrastructure	<ul style="list-style-type: none"> • whole of council asset management and planning, design, and construction of: <ul style="list-style-type: none"> ◦ roads ◦ storm water drainage ◦ bridges ◦ pathways ◦ water & sewerage ◦ community facilities
Recycling and Waste Management, Water Cycle and Local Laws	<ul style="list-style-type: none"> • recycling • waste management • water cycle (water supply and sewerage operations) • local laws
Parks, Open Space and the Environment	<ul style="list-style-type: none"> • development and management of parklands • management of open spaces, including foreshore reserves and nature reserves • conservation management • reef guardian and associated activities • natural resource management • pest management • vector management

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	<ul style="list-style-type: none"> • environmental health • cemeteries
Planning, Finance, Innovation and Business Excellence	<ul style="list-style-type: none"> • development assessment • building and plumbing and drainage • strategic land use and urban planning • urban design and place making • infrastructure planning and charging • property management • financial planning and reporting • revenue management • corporate performance planning and reporting • project portfolio governance • corporate governance • innovation • information, communication and technology services

10.1 - ADOPTION OF COUNCIL AND COUNCILLOR RELATED POLICIES

Councillor Complaints Investigation Policy

Meeting Date: 30 November 2018

Attachment No: 4



COUNCILLOR COMPLAINTS INVESTIGATION POLICY (STATUTORY POLICY)

1. Scope

The Investigation Policy (this 'Policy') applies to investigations and determinations of a complaint about the alleged inappropriate conduct of a Councillor/s which has been referred by the Independent Assessor.

2. Purpose

This Policy outlines how complaints about the inappropriate conduct of Councillors will be dealt with as required by the section 150AE of the *Local Government Act 2009*. However, this policy does not relate to more serious Councillor conduct.

3. References (legislation/related documents)

Legislative reference

Crime and Corruption Act 2001

Local Government Act 2009

Related documents

Meeting Procedures Policy

Procurement Policy

4. Definitions

To assist in interpretation, the following definitions shall apply:

Assessor	Independent Assessor appointed under section 150CV of the LGA.
Behavioural standard	A standard of behaviour for Councillors set out in the Code of Conduct approved under section 150E of the LGA.
Chief Executive Officer	A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> .
Conduct	Includes— (a) failing to act; and (b) a conspiracy, or attempt, to engage in conduct.
Councillor conduct register	The register required to be kept by Council as set out in section 150DX of the LGA.
Inappropriate conduct	See section 150K of the LGA.
Investigation policy	Refers to this policy, as required by section 150AE of the LGA.
Investigator	The person responsible under this Policy for carrying out the investigation of the suspected inappropriate conduct of a Councillor or Mayor.

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LGA	Local Government Act 2009.
Local government meeting	Means a meeting of— (a) a local government; or (b) a committee of a local government.
Misconduct	See section 150L of the LGA.
Model procedures	See section 150F of the LGA.
Natural justice	Aa set of principles to ensure fair and just decision making, including a fair hearing, an absence of bias, decisions based on evidence, and the proper examination of all issues.
Referral notice	See section 150AC of the LGA.
Tribunal	The Councillor Conduct Tribunal as established under section 150DK of the LGA.
Unsuitable meeting conduct	See section 150H of the LGA.

5. Policy Statement

5.1 Confidentiality

Matters of suspected inappropriate conduct of a Councillor are confidential except as otherwise specifically provided for either in the LGA or this Policy.

Note: It must be kept in mind that the matter is an allegation only and not yet proven. Further, there will be circumstances where the detail of the referral will need to remain confidential to the Local Government. Any release of confidential information that a Councillor knows, or should reasonably know, to be confidential to the local government may be contrary to section 171(3) of the LGA and dealt with as misconduct.

5.2 Natural Justice

Any investigation of suspected inappropriate conduct of a Councillor/s must be carried out in accordance with natural justice. An overview of the principles of natural justice follows:

"Natural justice" or procedural fairness, refers to three key principles:

- (a) The person being investigated has a chance to have his or her say before adverse formal findings are made and before any adverse action is taken (fair hearing);
- (b) The investigator(s) should be objective and impartial (absence of bias); and
- (c) Any action taken is based on evidence (not suspicion or speculation).

A fair hearing means the Councillor who is the subject of the suspected inappropriate conduct matter must be told of the case against them including any evidence and be provided with an opportunity to put their case in writing with the investigation report provided to the Councillors as part of the meeting agenda.

An absence of bias means that any investigation must not be biased or be seen to be biased in any way. This principle embodies the concept of impartiality.

Decisions based on evidence requires that the investigation should not be based on mere speculation or suspicion but instead must be based upon evidence material.

A proper examination of all issues means the investigation must give a proper and genuine consideration to each party's case.

5.3 Assessor's Referral

The Council may receive from the Assessor a referral notice about the suspected inappropriate conduct of a Councillor/s. Council may also receive referrals directly.

5.4 Receipt of Assessor's Referral

On receipt of a referral notice about the suspected inappropriate conduct of a Councillor/s from the Assessor, the Chief Executive Officer will forward a copy of that referral notice to the Mayor and all Councillors as a confidential document.

Should the Mayor or a Councillor/s (other than the subject of the complaint or the complainant) disagree with any recommendation accompanying the Assessor's referral notice or form the opinion that the complaint should be dealt with in a way other than under this Policy, the Mayor or Councillor may request the matter be placed on the agenda of the next Council meeting to decide on the appropriate process to investigate the complaint. Such a request must be made in accordance with the Meeting Procedures Policy.

5.5 Investigator

Unless otherwise resolved by Council, the Mayor will manage the investigation of suspected inappropriate conduct of other Councillors.

If the suspected inappropriate conduct involves conduct that in the circumstances, the Mayor believes, it is in the best interests of the investigation to refer the matter for external investigation, then the Chief Executive Officer must refer the suspected inappropriate conduct to the President of the Tribunal to investigate and make recommendations to the Council about dealing with the conduct.

If the suspected inappropriate conduct involves:

- (a) an allegation about the conduct of the Mayor; or
- (b) the Mayor as the complainant.

The Chief Executive Officer must refer the suspected inappropriate conduct to the President of the Tribunal to investigate and make recommendations to the Council about dealing with the conduct.

5.6 Early Resolution

Before beginning an investigation, the investigator must consider whether the matter is appropriate for resolution prior to the investigation. This consideration includes any recommendation made by the Assessor.

A matter is only appropriate for early resolution if the parties to the matter agree to explore early resolution.

The investigator may engage an independent person with suitable qualifications or experience to facilitate this process.

If the matter cannot be resolved, the matter will then be investigated as outlined in this investigation policy.

If the matter is resolved prior to investigation, the investigator will advise the Chief Executive Officer of this outcome. In turn, the Chief Executive Officer will advise the Mayor (if the Mayor is not the investigator) and all Councillors that the matter has been resolved. The Chief Executive Officer will also update the Councillor Conduct Register to reflect this.

5.7 Timelines

The investigator will make all reasonable endeavors to complete the investigation and provide a report for inclusion on the agenda of a Council meeting no more than eight weeks after the receipt of the complaint.

Note: If the investigator is of the opinion that it may take longer than eight weeks to complete the investigation, the matter should be raised with the Mayor (if the Mayor is not the investigator) to seek an extension of time.

5.8 Assistance for Investigator

If the Mayor is the investigator of a matter of suspected inappropriate conduct, the Mayor may use section 170A of the LGA to seek assistance during the investigation.

The Mayor is authorised by Council to expend money as reasonably needed to engage contractors in accordance with the Council's procurement policy.

5.9 Possible Misconduct or Corrupt Misconduct

If during the course of an investigation the investigator obtains information which indicates a Councillor/s may have engaged in misconduct, the investigator must cease the investigation and advise the Chief Executive Officer. The Chief Executive Officer will then notify the Assessor of the possible misconduct.

If during the course of an investigation, the investigator obtains information which indicates a Councillor/s may have engaged in corrupt conduct, the investigator must cease the investigation and advise the Chief Executive Officer. The Chief Executive Officer will then notify the Crime and Corruption Commission of the possible corrupt conduct.

Instances of suspected misconduct or corrupt conduct may be referred back to the Council if determined by the Assessor or Crime and Corruption Commission to be inappropriate conduct.

5.10 Completion of Investigation

On the completion of an investigation, the investigator will provide a report to the Council outlining the investigation process, the investigation findings, any recommendations about dealing with the conduct and a record of the investigation costs.

The Council will consider the findings and recommendations of the investigator's report and decide whether the Councillor has engaged in inappropriate conduct and, if so, what action it will take under section 150AH of the LGA.

Provisions for internal and external review of decisions are set out in sections 150CO to 150CS of the LGA.

5.11 Notice about the Outcome of Investigation

After an investigation is finalised, the Council must give notice about the outcome of the investigation to the person who made the complaint about the Councillor/s' conduct that was the subject of the investigation.

5.12 Councillor Conduct Register

The Chief Executive Officer must ensure decisions about suspected inappropriate conduct of a Councillor/s be entered into the Councillor Conduct Register.

Where a complaint has been resolved under section 5.6 of this Policy, the Chief Executive Officer will update the register to reflect that the complaint was withdrawn.

5.13 Expenses

Council must pay any reasonable expenses of Council associated with the informal early resolution or investigation of suspected inappropriate conduct of a Councillor including any costs of:

- (a) the president of the Tribunal in undertaking an investigation for Council;
- (b) a mediator engaged under this Policy;
- (c) a private investigator engaged on behalf of or by the investigator;
- (d) travel where the investigator needed to travel to undertake the investigation or to interview witnesses;
- (e) seeking legal advice; and
- (f) engaging an expert.

Note: Council may order the subject Councillor reimburse it for all or some of the costs arising from the Councillor's inappropriate conduct.

Any costs incurred by complainants or the subject Councillors will not be met by Council.

6. Changes to this Policy

This Policy is to remain in force until any of the following occur:

- 1. The related information is amended/replaced; or
- 2. Other circumstances as determined from time to time by the Council.

7. Repeals/Amendments

Version	Date	Action
1	Draft	

CHRIS MURDOCH
CHIEF EXECUTIVE OFFICER

**11 QUESTIONS/STATEMENT/MOTIONS ON NOTICE FROM
COUNCILLORS**

Nil

12 URGENT BUSINESS/QUESTIONS

Urgent Business is a provision in the Agenda for members to raise questions or matters of a genuinely urgent or emergent nature, that are not a change to Council Policy and can not be delayed until the next scheduled Council or Committee Meeting.

13 CLOSED SESSION

In accordance with the provisions of section 275 of the *Local Government Regulation 2012*, a local government may resolve to close a meeting to the public to discuss confidential items, such that its Councillors or members consider it necessary to close the meeting.

RECOMMENDATION

THAT the meeting be closed to the public to discuss the following items, which are considered confidential in accordance with section 275 of the *Local Government Regulation 2012*, for the reasons indicated.

14.1 Executive Contracts

This report is considered confidential in accordance with section 275(1)(a), of the *Local Government Regulation 2012*, as it contains information relating to the appointment, dismissal or discipline of employees .

14 CONFIDENTIAL REPORTS

14.1 EXECUTIVE CONTRACTS

File No: PL22.11.11

Attachments: Nil

Responsible Officer: Chris Murdoch - Chief Executive Officer

Author: Chris Murdoch - Chief Executive Officer

This report is considered confidential in accordance with section 275(1)(a), of the *Local Government Regulation 2012*, as it contains information relating to the appointment, dismissal or discipline of employees .

SUMMARY

Further information in relation to this matter will be tabled at the meeting.

15 CLOSURE OF MEETING