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Introduction

This an official copy of the **Meeting Procedure & Standing Orders Policy** of **Morningshon Shire Council**, made in accordance with the provisions of *Local Government Act and Regulations, Public Records Act, Morningshon Shire Council's Local Laws, Subordinate Local Laws and current Council Policies*.

In particular this policy meets the requirements of Sec 150G Of the Local Government Act 2009 and can be read in conjunction with other Council Policies that address similar issues.

This Policy was formally named – Code of Meeting Practice Policy.



1 PURPOSE

To provide Mornington Shire Council (MSC) with a meeting procedure and standing orders policy to meet legislative requirements, and to ensure all meetings of Council are held in accordance with highest possible levels of integrity, openness and transparency.

2 APPLICATION of POLICY

This Code of Meeting Practice applies to all meetings of the council including meetings of Standing Committees, and all participants in those meetings.

Any provision of the Code may be suspended by resolution of any meeting. The Chairperson who presides at a meeting is responsible for the conduct of the meeting.

The Chief Executive Officer is responsible for ensuring that notices, agendas, minutes and/or committee reports are prepared in accordance with the relevant legislation and the Code.

Each person is responsible for their conduct at a local government meeting.

3 POLICY STATEMENT

This Code of Meeting Practice complements the provisions of the Local Government Act, 2009 and Local Government Regulation 2012. Together these provide procedures and standards for the proper conduct of business by council at its meetings.

The council has an obligation to act in accordance with the local government principles set out at Section 4 of the Local Government Act, 2009, namely:

- (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.



4 MEETING PROCEDURES

Notice of Meetings

Council will meet in accordance with its adopted meeting cycle.

The dates and times of Council's Ordinary meetings and meetings of its Standing Committees must be published at least once a year

Written notice must be given to each Councillor at least four days before the meeting, unless it is impracticable to give that notice.

A notice under this section may be in electronic form where Councillors have the facilities to access the notice, agenda and business paper in that form.

In addition, Council will give notice to the public of the times, dates, places and matters to be considered at its Ordinary meetings and Standing Committees. These notices will be listed on Council's website at least four days prior to each meeting.

The notice of meeting given to Councillors must include an agenda of the items to be discussed at the meeting.

A Councillor, who wants an item of business included on the agenda for a particular meeting, must give written notice of the nature of the business to the Chief Executive Officer at least five days before notice of the meeting is given. [Items for consideration may include questions on notice, rescission motions or a notice of motion].

Note, that at a Special Meeting of Council only those matters listed on the agenda may be considered.

Agenda for Ordinary Meetings

The order of business for ordinary meetings will generally be:

1. Opening of meeting
2. Acknowledgement of Country
3. Record of those present
4. Apologies and Leave of Absence.
5. Disclosure of Interest, Conflict of Interest, Material Personal Interest
6. Condolences and Memorial
7. Confirmation of Minutes
8. Business Arising and Status of Actions
9. Action Schedule
10. Call for Items of General Business
11. Reception and Consideration of Committee Reports
12. Reception and Consideration of Officers Reports



17. General Business

18. Confidential Reports

19. Next Meeting

20. Closure of Meeting

Items must be considered in the order they are listed on the agenda for the meeting, unless the council by resolution decides to proceed in a different order.

Special Meetings

A Special meeting may be called by the Chief Executive Officer to present to Council matters of an urgent nature where Council is required to make a resolution in consideration of the matter[s] placed on the agenda.

The Chief Executive Officer must call a special meeting if:

- The Special Meeting is required by a resolution of council; or
- The Chief Executive Officer receives a written request for a Special Meeting signed by the Mayor or two or more Councillors and which specifies the object of the Special Meeting and proposes a day and time for the holding of the Special Meeting.

Written notice of a Special Meeting must state the day and time of the Meeting and the object of the Meeting.²

Only the business stated in the Notice of Meeting may be conducted at a Special Meeting.

The order of business for a Special Meeting is to be generally in accordance with the order of business for Ordinary Meetings.

5 CONDUCT of MEETINGS

The Mayor (or at the request or in the absence of the Mayor, the Deputy Mayor) or appointed Chairperson will preside at any of council's meetings.

If the Mayor and Deputy Mayor are absent, a Councillor may be elected to the chair by the Councillors present at the meeting.

If at the time designated for holding the meeting no Chairperson is present, the first business of the meeting must be the election of a Chairperson to preside at the meeting.

5.1 DUTIES OF THE CHAIRPERSON

The Chairperson has a duty to preserve order and ensure proceedings are conducted in a proper manner, by:

- determining that the meeting is properly constituted, and a quorum is present ☐ informing Councillors as to the business and objectives of the meeting



- formulating for discussion and decision any proposed resolution (motion) that has been moved for the consideration of the meeting
- deciding whether proposed resolutions and amendments are in order
- deciding points of order and other incidental matters that require a decision
- facilitating an exchange of views and ideas on key issues before the meeting
- confining discussion to within the scope of the meeting and within reasonable limits of time
- preserving order at the meeting
- focussing on serving the public interest
- putting relevant questions to the meeting and conducting a vote (and where authorised, giving a casting vote)
- declaring the result
- ensuring a division is taken if properly requested
- ensuring the record of minutes of the meeting is maintained
- adjourning the meeting when circumstances justify that course
- declaring the meeting closed when its business is complete.

5.2 ATTENDANCE AT MEETINGS

5.2.1 QUORUM

The quorum for a Council Meeting is a majority of Councillors who hold office.

The quorum for a Standing Committee Meeting is a majority of the Councillors appointed to that Committee, or where the Committee is an even number one half of the number is a quorum.³

The Meeting must commence business at the time appointed for holding the Meeting, or as soon (but before expiration of 30 minutes) thereafter as a sufficient number of Members are present to constitute a quorum.

Business must not be conducted at a Meeting unless a quorum is present.

A member shall be deemed to be present at a meeting only when:-

- that member is within the room in which the meeting is held; or
- when a Councillor is permitted by Council resolution to take part in a Meeting by teleconferencing. Teleconferencing is the use of a telephone, video conference equipment, or other means of instant communication that allows a person to take part in discussions as they happen.

All Councillors have a responsibility to participate in Council Meetings, policy development and decision making, for the benefit of the Local Government area.⁵

After a Meeting of the Council has commenced, a Councillor must not enter, leave or withdraw from the meeting without first notifying the Chairperson.



5.2.2 ABSENCE FROM MEETINGS

If a Councillor is absent without having obtained leave of absence or submitting apologies from two [2] consecutive Ordinary meetings of Council that Councillor's seat becomes vacant.

6 MEETINGS OPEN TO PUBLIC

6.1 PUBLIC

Except where the council, acting under its powers in S275 Local Government Regulation 2012 (outlined in Section 5.11 of this Code) resolves to close a meeting, every meeting of the council will be open to the public.

Members of the public are permitted in the public gallery or area set aside for the public. Members of the public must maintain good order at meetings.

Mobile telephones and audible pagers must be turned off or placed in silent mode in the meeting room, including any area set aside for the public.

A copy of the agenda will be made available to members of the public at the meeting, except for items to be considered in closed session.

Representatives of the press, radio and television may attend meetings. A copy of the agenda will be furnished to media representatives at or immediately prior to the opening of the meeting.

6.2 DEPUTATIONS

A person or group wishing to be received as a deputation by the council:

- must make written request at least seven (7) days before the meeting, to the Chief Executive Officer setting out the matter to be raised by the deputation and specifying the name and address of the person authorised to receive notices on behalf of the deputation; or
- may be invited by the Chairperson to address council on a matter listed on the agenda for which they have an interest, without notice.

The Chief Executive Officer must inform the Chairperson immediately upon the receipt of the request.

Unless otherwise directed by the Chairperson, the Chief Executive Officer must list the hearing of the deputation on the next Ordinary meeting agenda and give to the person specified in the request notice of the time and date when the deputation will be heard.

The Chairperson will determine the number of people in the deputation who will be permitted to address council or respond to questions.



The appointed speakers must restrict their addresses to not more than five minutes or as determined by the Chairperson.

If a member of the deputation other than the appointed speaker/s interjects or attempts to address the Council, the Chairperson may warn the deputation that a repetition may result in the deputation not being further heard.

If there is further interjection after the Chairperson has given the warning the Chairperson may call on the next item of business.

Unless the Council otherwise resolves, the effect of calling on the next business is that the deputation will not be heard further at that meeting and, if the deputation wishes to be heard at a subsequent meeting, a fresh request must be given to the Chief Executive Officer.

6.3 PETITIONS

Any petition presented to a Meeting of Council must be prepared in accordance with Council's procedure for petitions.

On presentation of the petition the Councillor must state the nature of the petition.

The Council will determine whether:

- the petition be received, and no further action be taken; or
- that the relevant department investigate and action or report back to the relevant Standing Committee for further consideration, if required.

7

CLOSED MEETINGS

Local Government and standing committees may resolve that a meeting be closed to the public if its Councillors or members consider it necessary to discuss any of the following matters:

- Appointment, dismissal or discipline of employees
- Industrial matters affecting employees
- Local Government's budget
 - Rating concessions or contracts proposed to be made by the Local Government or starting or defending legal proceedings involving the Local Government
- Any action to be taken by the Local Government under the Planning Act 2016 (PA), including applications made to it under the PA

• Business for which a public discussion would be likely to prejudice the interests of the Local Government or someone else or enable a person to gain a financial advantage. A Local Government or committee must not make a resolution (other than procedural) in a closed session meeting. If a closed session includes attendance by teleconference, the Councillor/s attending by teleconference must maintain confidentiality by ensuring no other person can hear their conversation.



7.1 To take an issue into a closed session, the Local Government must first pass a resolution to do so.

7.2 In the interests of accountability and transparency, the Local Government must specify the nature of the matter to be discussed and the reasoning of the Councillors for going into closed session.

7.3 If the matter is known in advance, the agenda should clearly identify that the matter will be considered in closed session and name the topic to be discussed and a brief explanation of why it is deemed necessary to take the issue into closed session.

7.4 The minutes of a Local Government must detail the matter discussed and reasoning for discussing the matter in closed session. The Local Government must also ensure that it complies with the statutory obligations associated with recording of passed resolutions.

7.5 The Council or Standing Committee cannot resolve that a meeting be closed to the public if any person is to take part in the meeting by teleconferencing.

7.6 A resolution that a meeting be closed must state the nature of the matters to be considered while the meeting is closed.

7.7 Only Procedural Resolutions may be made during a closed meeting. The Meeting must be reopened before any substantive resolution on the matter is made.

7.8 When the council resolves to close the Meeting to the Public, the Chairperson may direct all persons other than Councillors and the Chief Executive Officer to leave the Council Chambers. The Chairperson may allow additional persons (including officers of the council, and legal and technical advisers) to remain in the meeting. All other persons must immediately leave the Council Chambers.

7.9 A person failing to comply with a direction to leave the Council Chambers may be removed from the Council Chambers using reasonably necessary force. For the purpose of effecting the removal the Chairperson may call upon the assistance of a member of the Police Service.

7.10 Unless the council, upon the resumption of its open meeting, resolves to the contrary, all matters discussed in a closed meeting must be kept confidential.

8

COUNILLOR BEHAVIOUR

8.1 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:

8.1.1 The Chairperson must decide whether or not unsuitable meeting conduct has been displayed by a Councillor.



8.1.2 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 8.1.7 for the steps to be taken.

8.1.3 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:

- 8.1.3.1 Ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct
- 8.1.3.2 Apologising for their conduct
- 8.1.3.3 Withdrawing their comments.

8.1.4 If the Councillor complies with the Chairperson's request for remedial action, no further action is required.

8.1.5 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.

8.1.6 If the Councillor complies with the Chairperson's warning and request for remedial action, no further action is required.

8.1.7 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:

- 8.1.7.1 an order reprimanding the Councillor for the conduct
- 8.1.7.2 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.

8.1.8 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.

8.1.9 Following the completion of the meeting, the Chairperson must ensure:

- 8.1.9.1 details of any order issued is recorded in the minutes of the meeting.
- 8.1.9.2 if it is the third (3rd) or more order within a 12-month period made 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 the next meeting of the Local Government and treated as inappropriate conduct pursuant to the LGA
- 8.1.9.3 the Local Government's Chief Executive Officer is advised to ensure details of any order made must be updated in the Local Governments Councillor Conduct Register pursuant to the LGA.

Any Councillor aggrieved with an order issued by the Chairperson can move a motion of dissent for parts 1.1, 1.7 and 1.8 above.



8.2 Meeting process for dealing with suspected Inappropriate Conduct which has been referred to a Local Government

Pursuant to section 150AF of the LGA, after receiving a referral by the Independent Assessor or under paragraph 1.9.2 of this document of an instance of suspected inappropriate conduct, the Local Government must complete an investigation into the alleged conduct. After the completion of the investigation, the Local Government must decide whether the Councillor has engaged in inappropriate conduct in a Council meeting, unless it has delegated responsibility for this decision under section 257 of the LGA. When dealing with an instance of suspected inappropriate conduct which has been referred to a Local Government by the Independent Assessor, the Local Government must:

8.2.1 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 (the LGR).

8.2.2 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 4.

8.2.3 The Local Government should then debate the issue and decide whether the accused Councillor engaged in inappropriate conduct.

8.2.4 If the Local Government decides that the subject Councillor has engaged in inappropriate conduct, the Local Government is then required to decide what penalty or penalties from the following orders, if any, to impose on the subject Councillor:

8.2.4.1 an order that the Councillor make a public admission that the Councillor has engaged in inappropriate conduct

8.2.4.2 an order reprimanding the Councillor for the conduct

8.2.4.3 an order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense

8.2.4.4 an order that the Councillor be excluded from a stated Local Government meeting

8.2.4.5 an order that the Councillor is removed, or must resign, from a position representing the Local Government, other than the office of Councillor, for example, the Councillor is ordered to resign from an appointment representing the Local Government on a State board or committee

8.2.4.6 an order that if the Councillor engages in the same type of conduct again, it will be treated as misconduct

8.2.4.7 an order that the Councillor reimburse the Local Government for all or some of the costs arising from the Councillor's inappropriate conduct.

8.2.5 When making an order, the Local Government 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 the Local Government is reasonably satisfied is true.



8.2.6 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.

8.2.7 The Local Government must ensure the meeting minutes reflect the resolution made.

9

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:

9.1 A Councillor with a material personal interest must inform the meeting of the Local Government of their material personal interest and set out the nature of the interest, including:

9.1.1 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

9.1.2 How a person or other entity stands to gain the benefit or suffer the loss

9.1.3 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.

9.2 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.

9.3 Once the Councillor has left the area where the meeting is being conducted, the Local Government can continue discussing and deciding on the matter at hand.

9.4 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.

9.5 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 9.1.

9.6 In the event the majority of Councillors inform a meeting of a material personal interest regarding a matter:

9.6.1 the Local Government must resolve to delegate the consideration and decision on the matter, pursuant to section 257 of the LGA; or

9.6.2 if the matter cannot be delegated under section 257 of the LGA, the Local Government 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.



9.7 Where a Councillor informs a meeting of a material personal interest in a matter, the Chairperson must ensure the minutes of the meeting (to be posted on the Council's website) record:

- 3.7.1 The name of the Councillor who has a material personal interest in the matter
- 3.7.2 The material personal interest, including the particulars mentioned by the Councillor regarding the material personal interest
- 3.7.3 Whether the Councillor participated in the meeting, or was present during the meeting, under an approval granted by the Minister for Local Government.

10 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:

10.1 A Councillor with a real or perceived conflict of interest must inform the meeting of the Local Government of their personal interest and set out the nature of the interest, including:

10.1.1 The nature of the interest

10.1.2 If the Councillor's personal interest arises because of the Councillor's relationship with, or receipt of a gift or benefit from, another person:

10.1.2.i the name of the other person

10.1.2.ii the nature of the relationship or value and date of receipt of the gift or benefit received, and

10.1.2.iii the nature of the other person's interests in the matter.

10.2 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.

10.3 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) as to whether another Councillor may stay in the meeting.

10.4 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.



10.5 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.

10.6 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:

10.6.1 The size or significance of the benefit the subject Councillor stands to receive or benefit

10.6.2 The benefit the subject Councillor stands to receive versus the benefit the community stands to receive from the potential decision

10.6.3 The closeness of any relationship the subject Councillor may have with a given person or group.

10.7 In making the decision under 4.6, it is irrelevant how the subject Councillor intended to vote on the issue or any other issue (if known or suspected).

10.8 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.

10.9 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 4.1.

10.10 In the event the majority of Councillors inform of a personal interest in a matter:

10.10.1 the Local Government must resolve to delegate the consideration and decision on the matter, pursuant to section 257 of the LGA, or

10.10.2 if the matter cannot be delegated under the section 257 of the LGA, the Local Government 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.

10.11 Where a Councillor informs a meeting of a personal interest in a matter, the Chairperson must ensure the minutes of the meeting (to be posted on the Council's website) record:



- 10.11.1 The name of the Councillor who has declared the conflict of interest
- 10.11.2 The nature of the personal interest, as described by the Councillor
- 10.11.3 The decisions made under 4.3 and 4.5 above
- 10.11.4 Whether the Councillor participated in the meeting under an approval by the Minister
- 10.11.5 If the Councillor voted on the matter, how they voted
- 10.11.6 How the majority of Councillors voted on the matter.