

 <p>City of Mount Gambier</p>	<p>COUNCIL POLICY</p> <p>Council Determined Meeting Procedures</p>	Version No:	1
		Issued:	23 January 2024
		Next Review:	January 2028

1. Introduction

The City of Mount Gambier is committed to the principles of honest, open and accountable government and encourages community participation in the business of Council.

Council is required under Section 92 of the Local Government Act 1999 (the Act) to adopt a Code of Practice for Access to Meetings and Documents (i.e. a code for the use of confidentiality provisions in sections 90, 90A and 91 of the Act). The section 92 code is contained in a separate Council policy.

The Local Government (Procedures at Meetings) Regulations 2013 (the Regulations) stipulate the statutory procedures to be undertaken during the operation of Council and Committee meetings. Under the Regulations, Council may adopt a Code of Practice for its own meetings, which varies the provisions that are capable of variation under the Regulations. Any such varied meeting procedure regulations will be contained in a separate Council code/policy which (if adopted) must be reviewed at least once in every financial year and altered, substituted or revoked by resolution supported by at least two-thirds of members entitled to vote.

Sections 86(8) and 89(1) of the Act provides that where a procedure is not prescribed by regulation, Council (or a Council Committee, when Council does not determine the procedures for the Committee) can determine its own procedures, provided it is not inconsistent with the Act or Regulations (including any varied regulations).

This policy contains Council determined meeting procedures under sections 86(8) and 89(1) of the Act.

2. INTERIM Adoption

This Policy was adopted by the Council on 24 January 2024 as an interim policy following the adoption of a substitute section 92 Code of Practice and pending further deliberations on Council determined meeting procedures and/or varied meeting procedure regulations.

3. Statement of principle

This policy contains Council determined meeting procedures under sections 86(8) and 89(1) of the Act and should be read together with the (Procedures at Meetings) Regulations (if/as varied by adoption of a regulation 6 Code) and the Act.

In particular, the guiding principles in regulation 4 that should be applied with respect to the procedures to be observed at a meeting of a Council or a Council committee:

- 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 the Council;
- c) procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting;
- d) procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting.

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4. Council Determined Meeting Procedures

4.1 FILMING AND AUDIO RECORDING DEVICES

Council maintain its current minute taking practice that involves the agenda item and recommendation/resolution being projected on screen at the Council and Standing Committee meetings with the minutes being typed at the meeting.

Any person may record audio of Council, committee and sub-committee meetings provided that such recording does not interfere with the orderly conduct of such a meeting.

Audio devices used for such purposes are to be held by the operator of such a device and are not to be placed on the meeting table used by the members of that Council, committee or sub-committee meeting unless otherwise resolved by the members at that particular meeting.

The Presiding Member may at any time during the course of any meeting direct the audio recording of such meeting to cease, should the Presiding Members be of the view that the audio recording of the meeting is interfering with the orderly conduct of the meeting.

Audio recording of items considered 'In-Confidence' under the provisions of the Local Government Act 1999 is prohibited.

Any person wishing to take photographs or video recordings of any Council, committee or sub-committee meeting must request the permission of the Presiding Member.

Such request must be made in writing and be received by the Presiding Member at least 48 hours in advance of the meeting. In considering such a request the Presiding Member shall not unreasonably refuse permission however they may place restrictions and conditions on such recording and photography as they see fit so as to ensure such recording does not interfere with the orderly conduct of the meeting.

Where such permission has been granted, should at any time during the course of the meeting the Presiding Member be of the view that the video recording or photography of the meeting is interfering with the orderly conduct of the meeting, the Presiding Member may direct the video recording or photography of the meeting to cease.

Video recording and photography of items considered 'In-confidence' under the provisions of the Local Government Act 1999 is prohibited.

4.2 PRESENTATION OF COMMITTEE RECOMMENDATIONS TO COUNCIL

It is the policy of this Council that the Presiding Member of any Council Committee will present the Committee Minutes and Recommendations to Council.

Should a Presiding Member of any Committee not be able to attend a Council Meeting then they may nominate in advance, any other Member of such Committee to present the Committee Minutes and Recommendations to Council.

Should a Presiding Member of any Committee not be in attendance at a Committee Meeting, but is in attendance at the Council meeting at which the Committee Minutes and Recommendations are to be presented, then the Presiding Member of the Committee shall present the Committee Minutes, but may elect to refer any item of business to the Member that presided over the Committee Meeting, or to another Member who attended the Committee meeting, for presentation of the item to Council.

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4.3 VOTING 'EN-BLOC'

Council does not support the use of 'en-bloc' voting during Council and Committee meetings to adopt a number of items, motions or recommendations by one resolution without debate.

En-bloc decision-making is not lawful in relation to items for decision and not considered good practice for other agenda items, and is in conflict with the guiding principles of the Local (Procedures at Meetings) Regulations.

4.4 APPOINTMENT AND ROLE OF DEPUTY MAYOR

This policy provision shall only apply where the Council resolves to appoint a Deputy Mayor in accordance with Section 51(3) of the Act.

Section 51(4) provides that a Deputy Mayor will be chosen by the members of a Council from amongst their own number and will hold office for a term determined by the Council that must not exceed 4 years. At the expiration of the term a Deputy Mayor is eligible for a further term.

Where Council has resolved to have a Deputy Mayor the Mayor shall immediately call for nominations and acceptances from Members present at the Council Meeting.

If only one nomination is received then that Member is to be declared Deputy Mayor.

Where more than one nomination is received a secret ballot shall be conducted forthwith without debate. Resolutions will be passed to endorse the voting process consistent with section 51(8) and appoint the Chief Executive Officer (or any other Senior Officer present at the meeting) as Returning Officer to declare the result and draw lots (if/as necessary).

The following shall apply to the determination of Deputy Mayor:

- Any Member present at the meeting may be nominated.
- The Mayor does not vote on the question of the appointment of Deputy Mayor.
- A Member not in his or her seat at the meeting does not vote.
- The candidate with the highest number of votes (or where two or more candidates receive the equal highest number of votes the last name drawn in a lot) shall be declared the Deputy Mayor.
- A division cannot be called for when a vote on the question of appointing a Deputy Mayor is taken.
- The Mayor may (but is not required to) accept a motion to endorse the appointment of the Deputy Mayor however any failure or variation of the motion shall be of no effect on the result of the secret ballot.

In the absence of the Mayor, the Deputy Mayor shall act in the office of the Mayor.

In the Council Chamber, the Deputy Mayor shall assume no precedence, except in the absence of the Mayor, when the Deputy Mayor shall act in the office of Mayor. Outside the Council Chamber, the Deputy Mayor shall be given precedence, immediately following the Mayor.

4.5 APPOINTMENT TO COMMITTEES AND OTHER BODIES AND ORGANISATIONS

This policy provision applies when Council has been requested or is required to nominate or appoint a Member or any other person to fill a vacant position on any Committee or as delegate/representative on an outside body or organisation.

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Where these policy provisions are inconsistent with any legislative or statutory provisions or the Terms of Reference or other governing instrument of any Committee or other body or organisation, then those other provisions shall apply and override this policy (with the exception that Council may, subject to any statutory prohibitions, override the Terms of Reference of its own Committees)

The Chief Executive Officer shall notify Members of the request and/or requirements associated with the vacancy, including details of the Committee/Body/Organisation Terms of Reference and other relevant information, and will seek a written nomination of any Elected Member, Council Officer or other person with appropriate qualifications and/or experience.

Where Council is required under a legislative or some other requirement under Terms of Reference to seek community or independent nominees to Committee positions, then a public notice shall be published in a newspaper circulating in the area seeking interested persons to nominate within 21 days (or such other period as may be required). Such nominees may also be sought through a targeted process to identify suitable nominees.

The Chief Executive Officer shall present details of all nominees for vacant positions to the next available Council meeting together with a recommendation and draft resolutions that Council may endorse a secret ballot voting process and appoint the Chief Executive Officer (or any other Senior Officer present at the meeting) as Returning Officer to declare the result and draw lots (if/as necessary).

The following shall apply to the appointment of Committee Members and delegates/representatives on other bodies and organisations:

- A nominee need not be present at the meeting, but must provide a written acceptance to the Chief Executive Officer prior to consideration.
- Candidate nominees should display the qualities sought to fill the vacant position including relevant skills, experience and interests.
- Prior to commencing the secret ballot process, by passing a resolution, Council:
 - i. may determine not to nominate or appoint any person to fill a vacancy.
 - ii. should determine the term to apply to the nomination/appointment, that may survive the next general/periodic election.
- The Mayor may vote on the question of position appointments to Committee's and other bodies and organisation's.
- A Member not in his or her seat at the meeting does not vote.
- The candidate with the highest number of votes (or where two or more candidates receive the equal highest number of votes the first name drawn in the lot) shall be declared as being nominated/appointed to the vacant position.
- A division cannot be called for when a vote on the question of appointing a person to fill a vacant position is taken.
- The Mayor may (but is not required to) accept a motion to endorse the filling of the vacant position however any failure or variation of the motion shall be of no effect on the result of the secret ballot.
- Council may determine to appoint proxies/deputies to certain positions to ensure representation in the absence of selected members/delegates/representatives.

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Limestone Coast Local Government Association Positions

The Mayor shall be the preferred candidate for any Board Member positions (and the Deputy Mayor the preferred candidate for any proxy/deputy position) on a section 42 subsidiary (ie Limestone Coast Local Government Association).

Nominations shall only be sought for the position of Board Member and/or proxy/deputy where the Mayor or Deputy Mayor are unable to fill the positions, or to act when both the Mayor and Deputy Mayor may be unavailable, in which case the nomination/appointment procedure shall be as described in this Policy.

Payment of Allowances/Sitting Fees

Council should have a consistent and reasonable approach to payment of allowances/ sitting fees to Members and other community and independent persons appointed to positions on Committees which should be prescribed in the Terms of Reference.

Appointment of Independent Members of a Council committee will be for a term determined by the Council, and may survive the next general/periodic election unless Council specifically resolves otherwise at the time of the appointment (noting that Council may have the right to terminate any appointment at any time, or that the term of appointment may be determined by some other statutory means).

Roles of Nominees/Appointees

Upon nomination/appointment to a position, Council's duly declared nominee/appointee shall be authorised to fill that position, including the exercise of any voting rights.

Where more than one person has been nominated/appointed to fill a position or as deputy/proxy, precedence shall apply based upon the persons position (ie Mayor, Deputy Mayor, Member, CEO etc).

Attendance by Non-Appointed Persons

Subject to any valid provision to the contrary, any non-appointed Elected Member or Council Officer may attend meetings of any Committee or other body or organisation to whom Council has nominated/appointed a Member or delegate/representative, but may not speak or be heard or vote at the meeting unless invited by the meeting organiser and in accordance with a direction of the Council or the Chief Executive Officer.

Independence of Bodies/Organisations

Other bodies and organisations to which Council nominates/appoints Elected Members, Council Officers or other suitably persons as delegates/representatives do not operate under the provisions of the Local Government Act 1999 or other legislation that prescribe meeting procedures and Member obligations.

Any person appointed to a position on a body or organisation (whether a Council Member, Council Officer or some other person) is bound by the governing arrangements applicable to that other body or organisation. In that capacity that person does not represent the interests of Council, but will be required to act in the interests of that body or organisation, which at times may be inconsistent with the interests or a formal position of the Council.

Council may influence but is not to instruct any Elected Member, Council Officer or other person whom it has nominated/appointed as a delegate/representative on another body or organisation as to the manner in which they act in fulfilling their non-Council duties. It is for the delegate/representative to determine how they fulfil their duties on a body or organisation and deal with any conflict that may arise between their competing interests/roles.

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4.6 ELECTRONIC ATTENDANCE AT INFORMATION AND BRIEFING SESSIONS

Any Member(s) may participate in an information or briefing session despite not being physically present, subject to each of the following conditions, as applicable to the circumstances:

- a written request to participate in the session by telephone or other electronic means being made to the Chief Executive Officer not less than 12 hours prior to the scheduled commencement time to enable any necessary technologies to be made available and compliant with any relevant provisions of the Local Government Act and Regulations.
- all Members and the public being able to hear the discussion between all Members including the Member(s) participating by telephone or other electronic means.
- the Member(s) may be disconnected where the Chief Executive Officer determines that the technology being used is causing unreasonable disruption or inconvenience to the session, or that a confidentiality under a s90(3) order may be or become compromised.
- should the telephone or other electronic connection fail or be disconnected, any attempt(s) to re-connect being at the discretion of the Chief Executive Officer.

5. Review of Policy

Council will review this policy when it has considered any further changes or additional Council determined meeting procedures, or otherwise during each term of Council.

The next scheduled review is due after the November 2026 local government elections.

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File Reference:	AF18/51
Applicable Legislation:	Local Government Act 1999 Local Government (Procedures at Meetings) Regulations 2013
Strategic Reference:	
Related Policies:	s92 Code of Practice for access to meetings and documents
Related Procedures:	
Related Documents:	Council Meeting Procedures Handbook (2019) Minute Takers Handbook for Local Government (2014)

DOCUMENT DETAILS

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