



## MAPOON ABORIGINAL SHIRE COUNCIL

### Acceptable Requests Guidelines

This is an official copy of the **Acceptable Requests Guidelines** of **Mapoon Aboriginal Shire Council**, made in accordance with the provisions of the Local Government Act and Regulations, Public Records Act, Mapoon Aboriginal Shire Council's Local Laws, Subordinate Local Laws, and current Council Policies.

The Acceptable Requests Guidelines is a Statutory Policy.

Statutory policies are prepared in response to legislative requirements and mandate employee behaviour. This Policy is approved by the Mapoon Aboriginal Shire Council for the guidance of Council and Council staff.

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			<b>Recommended Review Date June 2027</b>



## MAPOON ABORIGINAL SHIRE COUNCIL Acceptable Requests Guidelines

# Acceptable Requests Guidelines

### 1. Introduction/Policy Statement:

This policy is Council's acceptable requests guidelines for the purposes of section 170A of the *Local Government Act 2009*.

The purpose of this policy is to:

- Provide guidance to Councillors and Employees about the acceptable manner in which a Councillor may ask staff members for advice or information to assist the Councillors in carrying out their responsibilities under the *Local Government Act 2009* and the *Local Government Regulations 2012*;
- Establish reasonable limits on requests that a Councillor may make; and
- Define the Employees to whom Councillors may make requests for information.

### 2. Policy scope:

This policy applies to all Councillors, including the Mayor, and all Employees.

The Mayor and Councillors of Mapoon Aboriginal Shire Council will all from time to time require assistance or information from the employees of the Council to enable them to effectively carry out their duties and represent the interests of the community.

These guidelines outline the standards for the provision of assistance or information to Councillors and are to be followed by the Mayor, all Councillors and employees.

### 3. Definitions:

#### Act

Act means the *Local Government Act 2009* (Qld).

#### CEO

The Chief Executive Officer of Mapoon Aboriginal Shire Council and includes any officer acting in that position from time to time.

#### Councillor

Person or persons elected or appointed to the Local Government under the *Local Government Act 2009* or the *Local Government Electoral Act 2011*. A reference to Councillor includes the Mayor, unless expressly excluded.



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#### Employee

Any permanent, part time and casual employee or contractor of Mapoon Aboriginal Shire Council. Employee includes a person prescribed as a *local government employee* under a State Government Regulation.

#### Information and advice

Information and advice include details of what Council, Councillors and Employees are doing; any administrative, legal, financial, technical or statistical information held by Council and options available to achieve a particular thing.

#### Senior Executive

A Senior Executive Employee of the Council means an Employee of Council who reports directly to the CEO and whose position is ordinarily considered to be a senior position in Council's corporate structure. It includes any officer acting in those positions from time to time.

#### 4. Policy statement:

Requests for advice or information under these guidelines must comply with the principles that guide decision making by Councillors and Council employees stated in Chapter 1, section 4 of the Act as:

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

#### Directions to Employees by Councillor, including the Mayor

Councillors are reminded of their obligations under section 170 of the Act which states:

1. The Mayor may give a direction to the CEO, except where:
  - it is inconsistent with a resolution, or document adopted by resolution, of Council;
  - it relates to the appointment of a local government employee;
  - it relates to disciplinary action by the CEO in relation to an Employee; or
  - it would result in the CEO contravening a provision of an Act.
2. No Councillor, including the Mayor, may give a direction to any other local government employee, except in accordance with section 170AA of the Act.
3. Councillors, including the Mayor, must not discuss with Employees any matters relating to the terms and conditions of their employment with Council except as necessary when conducting the performance appraisal of the Chief Executive Officer.
4. Interaction between Councillors and Employees must, at all times, be carried out in a professional and courteous manner.
5. Councillors must ensure that when making a request for advice that the manner and timing of their request is not capable of being construed as an unlawful direction to the Employee.



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6. If an attempt is made by a Councillor to direct an Employee, the Employee must report this matter to the CEO directly or through the Employee's Senior Executive Officer so that the matter can be addressed with the Councillor.

### Mayor and Chairpersons

Section 170A (6) of the Act provides that these reasonable request guidelines do not bind the Mayor, or the Chairperson of a committee if the request for advice relates to the role of the Chairperson.

### Routine Operational Requests

Councillors are encouraged to raise all routine operational matters through the Mayor, who will then raise it with CEO or a Senior Executive Officer. An example of a routine operational matter is wanting to know the location of a meeting or lodgement of a customer service request.

Councillors and Mayor are to address all travel requests for meetings, forums and/or training through the CEO. Final approval for Mayor's requests to be made by the CEO. Final approval for Councillor's requests can be made by Mayor and/or CEO.

### Interaction between Employees and Councillors

Employees must not approach Councillors in the exercise or performance of their role.

### Requests for Advice or Information

A request for information or advice must identify the proposed decision that the Councillor needs information or advice on.

If the Councillor expects to receive a written response to the request for advice or information, the Councillor must make the request in writing (including by email).

Councillors must ensure that any requests for advice:

- (a) Are not made in conflict with Council's adopted policies, local laws, resolutions, corporate plan and budget;
- (b) Do not substantially and unreasonably divert the resources of the Council from the performance of its functions;
- (c) Have been considered against the likely cost implications when making requests for advice and if the cost of providing the information is likely to be high, the Councillor may make the request only to the Chief Executive Officer, who is expressly authorised by the Council under these guidelines to seek to minimise the costs to provide the advice.

A request for information relating to Council by a Councillor must be made directly to the CEO. The only exception to this is pursuant to section 170A (6) as stated above.



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#### *When Information or Document Excluded*

A request for Information or a document under section 170A(2) or 170A(3) do not apply to information or a document:

- (a) that is a record of the conduct tribunal; or
- (b) that was a record of a former conduct review body (i.e. a regional conduct review panel or the Local Government Remuneration and Discipline Tribunal); or
- (c) if disclosure of the information or document to the councillor would be contrary to an order of a court or tribunal; or
- (d) that would be privileged from production in a legal proceeding on the ground of legal professional privilege.

#### **Timeframe for Response**

The CEO is responsible for complying with a request made for either advice or information within:

- (a) 10 business days after receiving the request; or
- (b) if the CEO reasonably believes it is not practicable to comply with the request within 10 business days, then within 20 business days after receiving the request.

## **7. Inclusions and exclusions**

For the purposes of this policy, the following exclusions apply:

#### **Exclusions:**

##### *Employees Attendance at Meetings*

Any Councillor may request the CEO or relevant Senior Executive Officer to arrange for a council Employee to attend a meeting with a member of the public. Such a request is not a request for advice under section 170A of the Act.

##### *Routine Operational Requests*

A request for assistance from Employees about routine operational matters, for example the location of a meeting or lodgement of a customer service request, is not a request for advice under section 170A of the Act and these guidelines do not apply to that request.



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## 8. Relevant Legislation

*Local Government Act 2009*

### 170 Giving directions to local government staff:

- (1) The Mayor may give a direction to the Chief Executive Officer.
- (2) However, a direction under subsection (1) must not be given if—
  - (a) it is inconsistent with a resolution, or a document adopted by resolution, of the local government; or
  - (b) it relates to the appointment of a local government employee under section 196(3); or
  - (c) it relates to disciplinary action by the Chief Executive Officer in relation to a local government employee under section 197 or a Councillor Advisor; or
  - (d) it would result in the chief executive officer contravening a provision of an Act.
- (3) No Councillor, including the Mayor, may give a direction to any other local government employee, except in accordance with the guidelines made under section 170AA about the provision of administrative support to Councillors.

*Note—*

*Contravention of subsection (3) is misconduct that could result in disciplinary action being taken against a Councillor. See sections 150L(1)(c)(iv), 150AQ and 150AR.*

- (4) The Chief Executive Officer must—
  - (a) keep a record of each direction given to the Chief Executive Officer; and
  - (b) make available to the local government each direction mentioned in paragraph (a).



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#### 170A Requests for assistance or information

- (1) A Councillor may ask a local government employee provide advice to assist the Councillor carry out his or her responsibilities under this Act.
- (2) A Councillor may, subject to any limits prescribed under a regulation, ask the Chief Executive Officer to provide information, that the local government has access to, relating to the local government.

*Example of a limit prescribed under a regulation—*

*A regulation may prescribe the maximum cost to a local government of providing information to a councillor.*

- (3) If the advice or information requested under subsection (1) or (2) relates to a document, the requirement under subsection (9) to comply with the request includes a requirement to provide a copy of the document
- (4) Subsection (2) and (3) does not apply to information or a document—
  - (a) that is a record of the conduct tribunal; or
  - (b) that was a record of a former conduct review body; or
  - (c) if disclosure of the information to the councillor would be contrary to an order of a court or tribunal; or
  - (d) that would be privileged from production in a legal proceeding on the ground of legal professional privilege.
- (5) A request of a Councillor under subsection (1) or (2) is of no effect if the request does not comply with the acceptable requests guidelines.
- (6) Subsection (5) does not apply to—
  - (a) the Mayor; or
  - (b) the Chairperson of a committee of a local government if the request relates to the role of the chairperson.
- (7) The **acceptable requests guidelines** are guidelines, adopted by resolution of the local government, about—
  - (a) the way in which a councillor may ask a local government employee for advice to help the councillor carry out his or her responsibilities under this Act; and
  - (b) reasonable limits on requests that a councillor may make.
- (8) In this section a local government employee includes a person prescribed under a regulation.
- (9) The Chief Executive Officer must comply with a request made to the Chief Executive Officer under subsection (1) or (2)—
  - (a) within 10 business days after receiving the request; or
  - (b) if the Chief Executive Officer reasonably believes it is not practicable to comply with the request within 10 business days—within 20 business days after receiving the request.

Maximum penalty—20 penalty units.

- (10) If the Chief Executive Officer forms the belief mentioned in subsection (9)(b), the Chief Executive Officer must give the Councillor notice about the belief and the reasons for the belief within 10 business days after receiving the request.
- (11) In this section—

**former conduct review body** means a regional conduct review panel or the Local Government Remuneration and Discipline Tribunal under this Act as in force before the commencement of the Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018, section 18.



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#### 9. Variations

Council reserves the right to vary, replace or terminate this policy from time to time in accordance with the Act.

#### 10. Related Policies and Processes

- Administrative Action Complaints Policy
- Administrative Action Complaints Process
- Code of Conduct

#### 11. Workplace Participant Acknowledgement

I acknowledge:

- (a) Receiving this MASC Policy;
- (b) That I must comply with this policy; and
- (c) That there may be disciplinary consequences if I fail to comply, including termination of employment.

Your name: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_