





## MAPOON ABORIGINAL SHIRE COUNCIL

### Acceptable Request Guidelines Policy

RESOLUTION NO. C157/2019 VERSION 2

## Acceptable Request Guidelines Policy

### 1. Introduction/Policy Statement:

The acceptable request guidelines are adopted by resolution of Council to:

- Provide guidance to Councillors and staff members about the acceptable manner in which a Councillor may ask staff members for advice to help the Councillor carry out his or her 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 staff members to whom Councillors may make requests for information.

### 2. Policy scope:

This policy apply to all Councillors including the Mayor, and all Council employees.

### 3. Definitions:

#### 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 person elected or appointed to the Local Government under the Local Government Act 2009 or the Local Government Electoral Act 2011. Councillor includes the Mayor.

#### Employee

Any permanent, part time and casual employee of Council and any other person or consultant who contracts with the Council to provide services to it, such as engineers, lawyers, architects, planners, or plant operators.

Employee includes a person prescribed as a Local Government employee under a State Government regulation.



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#### Information and advice

Information and advice include details of what Councillor, 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 in charge of a Department of Council and 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 Local Government Act 2009 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
- Democratic representation, social inclusion and meaningful community engagement; and
- Good governance of, and by, local government; and
- Ethical and legal behaviour of Councillors and local government employees.

#### Directions to Staff Members by Councillor or Councillors (including the Mayor).

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

- (a) The Mayor may give a direction to the Chief Executive Officer or Senior Executive employees.
- (b) No Councillor, including the Mayor, may give a direction to any other local government employees.

Further,

- (a) Councillors and 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.
- (b) Interaction between Councillors and Council Staff members must, at all times, be carried out in a professional and courteous manner.



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- (c) 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 staff member.
- (d) If an attempt is made by a Councillor or Councillors to direct an employee, the employee must report this matter to the CEO directly or through the employee's Senior Executive so that the matter can be addressed with the Councillor or Councillors.



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#### **Mayor and Chairpersons**

Section 170A(5) of the Act provides that these reasonable request guidelines do not bind the Mayor, or the Chairperson of a committee, who makes a request for advice about his or her role as Chairperson.

#### **Staff Member Attendance at Meetings**

Any councillor may request the Chief Executive Officer or relevant Senior Executive Officer to arrange for a council staff member 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 staff members 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.

Councillors are encouraged to raise all routine operational matters through the Mayor, who will then raise it with Chief Executive Officer or a Senior Executive Officer.

#### **Interaction between Employees and Councillors**

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

#### **Requests for Advice**

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

Councillors must ensure that any requests for advice they make is not in conflict with the Council's adopted policies, local laws, resolutions, corporate plan and budget.

Councillors must ensure that a request for advice does not substantially and unreasonably divert the resources of the Council from the performance of its functions.

Councillors must consider 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.

#### **5. Inclusions and exclusions**

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



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## 6. 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 or senior executive employees.
- (2) No councillor, including the mayor, may give a direction to any other local government employee.

### 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.

- (1) Subsection (2) does not apply to information—
  - (a) that is a record of the conduct tribunal; or
  - (b) if disclosure of the information to the councillor would be contrary to an order of a court or tribunal; or
  - (c) that would be privileged from production in a legal proceeding on the ground of legal professional privilege.
- (2) 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.
- (3) Subsection (4) does not apply to—
  - (a) the mayor; or
  - (b) the chairperson of a committee of the council if the request relates to the role of the chairperson.

## 7. Variations

MASC reserves the right to vary, replace or terminate this policy from time to time.



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#### 8. Related Policies and Procedures

- Complaints about Public Officials Policy
- Code of Conduct
- Councillor Code of Conduct

#### 9. Policy Version and Revision Information

**Policy authorised and adopted by:**                      **Original issue:** 16/01/18

Naseem Begam Chetty: Chief Executive  
Officer and The Mapoon Aboriginal Shire  
Council.

**Policy Maintained by:** CEO

**This version:** 2.0

**Date Adopted:** 19 August 2019

**Review date:** 30/~~56~~/2022

#### 10. Workplace Participant Acknowledgement

I acknowledge:

- (e) Receiving this MASC Policy;
- (f) That I should comply with this policy; and
- (g) That there may be disciplinary consequences if I fail to comply, including termination of employment.

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

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

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