
| | |
|----------------------|---|
| REPORT NO: | GE442 |
| REPORT TITLE: | Draft Governance Rules |
| SOURCE: | Gavan O'Keefe, Manager Governance Peter Faull, Coordinator Governance & Corporate Support |
| DIVISION: | Corporate Services |
| FILE NO: | HCC20/482 |
| POLICY: | - |
| STRATEGIC OBJECTIVE: | 5.3 Provide responsible and transparent governance, services and infrastructure which responds to and supports community needs. |
| ATTACHMENT: | 1. <i>Draft Governance Rules</i> |

1. SUMMARY OF REPORT:

- 1.1 Under the *Local Government Act 2020*, Council is required to adopt Governance Rules by 1 September 2020. Council is also required to ensure that a process of community engagement is followed in developing these Governance Rules.
- 1.2 Attachment 1 to this report are draft Governance Rules, which it is recommended that Council approves for placing on public exhibition.

2. RECOMMENDATION:

- 2.1 **THAT Council approves placing on public exhibition, the draft Governance Rules which are provided as Attachment 1 of this report, for a period of 21 days from Tuesday 14 July to Monday 3 August 2020.**
- 2.2 **That Council commits to, within 12 months of its adoption of the Governance Rules, conducting a comprehensive community consultation and engagement process with the community before readopting the Governance Rules.**

3. LEGISLATIVE POWERS:

Local Government Act 2020 (the Act) section 60

4. FINANCIAL IMPLICATIONS:

There are no financial implications arising from the matters contained in this report.

5. ENVIRONMENTAL SUSTAINABILITY CONSIDERATIONS:

There are no environmental sustainability implications in respect to this report.

6. CLIMATE CHANGE ADAPTATION CONSIDERATIONS:

There are no climate change adaptation considerations in respect to this report.

7. CHARTER OF HUMAN RIGHTS APPLICATION:

The Charter of Human Rights and Responsibility has been considered and the recommendations of this report give no rise to any matters.

REPORT NO: GE442 (cont.)

8. COMMUNITY CONSULTATION:

- 8.1 The Local Government Act 2020 is being implemented in stages. One of the requirements of in the first stage of implementation is for Council to adopt Governance Rules before 1 September 2020.
- 8.2 These Governance Rules are, in the main, to regulate how Council conducts its meetings and require an election period policy for the Council. The Act requires that before Council adopts its Governance Rules, it must ensure that a process of community engagement is followed in developing or amending its Governance Rules.
- 8.3 The timeframe set by the enactment of the Local Government Act 2020 does not provide sufficient time for comprehensive engagement prior to the 1 September 2020 deadline. It is proposed that Council incorporate the existing Code of Meeting Procedures and Election Caretaker Period Policy into the Governance Rules. These documents have relatively recently been adopted by Council with the Code of Meeting Procedures reviewed with full community consultation in 2019 and Election Caretaker Policy being adopted by Council in October 2019.
- 8.4 These two documents have been incorporated into the draft Governance Rules (attached to this report) with minor amendments to ensure legislative compliance with the Local Government Act 2020.
- 8.5 The time available to conduct an extensive engagement and consultation is limited, particularly as Council's Election Caretaker Period Policy restricts public consultations continuing on or commencing from 1 August 2020 (until the October 2020 election). The Chief Executive Officer, as per the requirements of Council's Election Caretaker Policy, has granted an exemption to allow consultation on the draft Governance Rules to continue after 1 August 2020. It is therefore proposed to conduct a legislative compliant engagement process over 21 days prior to Council adopting the Governance Rules, with a commitment that within 12 months of adoption, Council will undertake a comprehensive consultation and engagement process before re-adopting new Governance Rules.

9. DISCUSSION:

- 9.1 Under section 60 of the Act, a Council must develop, adopt and keep in force Governance Rules for or with respect to the following:
 - 9.1.1 the conduct of Council meetings
 - 9.1.2 the conduct of meetings of delegated committees
 - 9.1.3 the form and availability of meeting records
 - 9.1.4 the election of the Mayor and the Deputy Mayor
 - 9.1.5 the appointment of an Acting Mayor
 - 9.1.6 an election period policy in accordance with section 69 of the Act
 - 9.1.7 the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under section 130 of the Act
 - 9.1.8 the procedure for the disclosure of a conflict of interest by a Councillor under section 131 of the Act
 - 9.1.9 the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section 126(1) of the Act
 - 9.1.10 any other matters prescribed by the regulations.

REPORT NO: GE442 (cont.)

- 9.2 The Governance Rules must provide for a Council to:
- 9.2.1 consider and make decisions on any matter being considered by the Council fairly and on the merits, and
 - 9.2.2 institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.
- 9.3 Council has followed a template developed by Maddocks Lawyers for the drafting of the Governance Rules. This template is set out in 7 chapters, with the chapter heading being:
- 9.3.1 Governance Framework
 - 9.3.2 Meeting Procedure for Council Meetings
 - 9.3.3 Meeting Procedure for Delegated Committees
 - 9.3.4 Meeting Procedure for Community Asset Committees
 - 9.3.5 Disclosure of Conflicts of Interest
 - 9.3.6 Miscellaneous
 - 9.3.7 Election Period Policy.
- 9.4 The information provided in each chapter is as follows:
- 9.4.1 Chapter 1: Governance Framework**
- (a) This chapter provides context and background information.
- 9.4.2 Chapter 2: Meeting Procedure for Council Meetings**
- (a) Council's current Code of Meetings Procedure have in essence been copied into this chapter;
 - (b) No changes have been made to any of the current procedures in the code. There have only been some minor amendments made to comply with the *Local Government Act 2020*, which are:
 - (i) adding new terms in the definition section;
 - (ii) adding a procedure to allow for the appointment of an Acting Mayor;
 - (iii) moving information related to the operation of committees into other chapters of the Governance Rules;
 - (iv) Including how a nonscheduled meeting of the Council could be called. The 1989 Act called this a Special meeting and provided for the Mayor or three councilors to request a meeting of council. This has not been included in the 2020 Act and has been incorporated in the draft Governance Rules.
 - (v) removing references to specific sections in the *Local Government Act 1989*.
- 9.4.3 Chapter 3: Meeting Procedure for Delegated Committees**
- (a) Rules governing the conduct of meetings of Delegated Committees are required to be included in the Governance Rules.
- 9.4.4 Chapter 4: Meeting Procedure for Community Asset Committees**
- (a) Council has previously required all Section 86 (LGA 1989) committees to conduct their meetings in accordance with the same meeting procedures that Council uses. To continue with this practice, it is recommended that

REPORT NO: GE442 (cont.)

the Governance Rules apply to any Community Asset Committees that are established by Council. This will provide for consistent meeting procedures to follow that meet accepted governance standards;

- (b) Council currently has two special committees established under section 86 of the *Local Government Act* 1989, being the Gladstone Park Community Centre Committee of Management and the Foresters Hall, Westmeadows Committee of Management;
- (c) Under the *Local Government Act* 2020 a Council can establish a Community Asset Committee for the purpose of managing a community asset in the municipal district, and the Chief Executive Officer may by instrument of delegation delegate the powers required by a Community Asset Committee to effectively manage the asset;
- (d) The Gladstone Park Community Centre Committee of Management and the Foresters Hall, Westmeadows Committee of Management would both be considered Community Asset Committees under the *Local Government Act* 2020. This matter will therefore be subject to a separate report to Council.

9.4.5 Chapter 5: Disclosure of Conflicts of Interest

- (a) The Governance Rules must include the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee;
- (b) The rules included in the attached draft Governance Rules reflect the current process for the disclosure of conflicts of interest, and also cover conflict of interest disclosures at a Delegated Committee Meeting, at a Community Asset Committee Meeting, at a meeting conducted under the auspices of Council, by members of council staff preparing reports for meetings, by members of council staff in the exercise of delegated power and by a member of council staff in the exercise of a statutory function.

9.4.6 Chapter 6: Miscellaneous

- (a) This section includes requirements that are included within the 1989 Act for Assembly of Councillors. This section had most application to Council holding Strategy and Policy Briefings These requirements have not been replicated in the 2020 Act and for transparency and good governance they have been included in the draft Governance Rules.
- (b) This chapter includes provision for the Chief Executive Officer to designate information as confidential for the purposes of a Strategy and Policy Briefing and for this designation to be presumed to be correct.

9.4.7 Chapter 7: Election Period Policy

- (a) Council's current Election Caretaker Period Policy has in essence been copied into this chapter, with outdated references to the *Local Government Act* 1989 removed and replaced with references to the *Local Government Act* 2020.

9.5 Community Engagement Process

- 9.5.1 The Act requires Council to ensure that a process of community engagement is followed in developing its Governance Rules.
- 9.5.2 If Council approves placing on public exhibition for a period of 21 days the draft Governance Rules which are provided as Attachment 1 of this report, this will allow time for a period of community engagement and analysis of any

REPORT NO: GE442 (cont.)

feedback received prior to a subsequent report being presented to Council with a final version of the Governance Rules that will be recommended for consideration and adoption by 1 September 2020.

- 9.5.3 Whilst a period of 21 days for community engagement is shorter than usual, this is viewed as acceptable because Council's Code of Meeting Procedures – which makes up the bulk of the draft Governance Rules – underwent a full review, including a period of community consultation, in late 2018 and into 2019, with Council adopting an updated code on 8 July 2019.

10. CONCLUSION:

- 10.1 Council is required to adopt Governance Rules by 1 September 2020, and to ensure that a process of community engagement is followed in developing these Governance Rules.
- 10.2 Given the restricted time provided by the enactment of the Local Government Act 2020 for effective community consultation and engagement it is proposed that Council
- 10.2.1 Incorporate the existing Code of Meeting Procedures and Election Caretaker Policy with minor amendments to ensure legislative compliance into Governance Rules,
- 10.2.2 Have a legislative compliant community engagement open for submissions for seven days prior to adopting the Governance Rules.
- 10.2.3 Commit to a comprehensive community consultation and engagement process on the Governance Rules within 12 months of the adoption of the Rules.