



## NOTICE OF MEETING

Dear Councillors and Councillors-Elect

I respectfully advise that a SPECIAL COUNCIL MEETING will be held in Council Chambers, York Town Hall, York on Tuesday, 19 October 2021, commencing at 5.00pm. The purpose of the meeting will be to:

- Swear in the Councillors-Elect
- Elect the Shire President and Deputy Shire President
- Allocate the Council Chamber Seating Arrangement

MEETING AGENDA ATTACHED

*Chris Linnell*

CHRIS LINNELL  
CHIEF EXECUTIVE OFFICER  
Date: 12 October 2021

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**MISSION STATEMENT**  
*"Building on our history to create our future"*

**Local Government Act 1995 (as amended)****Part 1 Introductory Matters**

## 1.3. Content and intent

- (1) This Act provides for a system of local government by —
  - (a) providing for the constitution of elected local governments in the State;
  - (b) describing the functions of local governments;
  - (c) providing for the conduct of elections and other polls; and
  - (d) providing a framework for the administration and financial management of local governments and for the scrutiny of their affairs.
- (2) This Act is intended to result in —
  - (a) better decision making by local governments;
  - (b) greater community participation in the decisions and affairs of local governments;
  - (c) greater accountability of local governments to their communities; and
  - (d) more efficient and effective local government.
- (3) In carrying out its functions a local government is to use its best endeavours to meet the needs of the current and future generations through an integration of environmental protection, social advancement and economic prosperity.

**Part 2 Constitution of Local Government****Division 2 Local Governments and Councils of Local Governments**

## 2.7 The Role of Council

- (1) The Council —
  - (a) directs and controls the Local Government's affairs; and
  - (b) is responsible for the performance of the Local Government's functions.
- (2) Without limiting subsection (1), the Council is to —
  - (a) oversee the allocation of the Local Government's finances and resources; and
  - (b) determine the Local Government's policies.

**Meetings generally open to the public**

- 5.1.** (1) Subject to subsection (2), the following are to be open to members of the public —
- (a) all council meetings; and
  - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1) (b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
- (a) a matter affecting an employee or employees;
  - (b) the personal affairs of any person;
  - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
  - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
  - (e) a matter that if disclosed, would reveal —
    - (i) a trade secret;
    - (ii) information that has a commercial value to a person; or
    - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
  - (f) a matter that if disclosed, could be reasonably expected to —

- (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
  - (ii) endanger the security of the local government's property; or
  - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
  - (g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
  - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.



## G 10 PUBLIC QUESTION TIME

### Policy Statement

1.0 "Public Question Time" will be limited to 15 minutes\*. The Council may exercise a discretion to extend the time by resolution if required. If there are questions remaining unasked at the expiration of the time allotted members of the public will be asked to submit their questions in writing to the Chief Executive Officer who will provide a written reply with the response placed in the Agenda of the next Ordinary Meeting of the Council.

*\* A minimum of 15 minutes is provided by Regulation 6(1) of the Local Government (Administration) Regulations 1996 (S.5.24 of the Local Government Act 1995)*

2.0 Questions may be asked at the Ordinary Council Meeting and any Committee meeting on any matter affecting the Council and the Shire's operations. Questions submitted to Special Meetings of the Council will be restricted to the subject matter of the meeting.

3.0 Each questioner will be limited to two (2) questions. Statements or long preamble are not permitted.

4.0 People wishing to ask questions will be encouraged to put their questions in writing or in a prescribed form and submit them to the Chief Executive Officer prior to 10 am on the day of the meeting. This allows for an informed response to be given at the meeting. Oral questions are permitted.

5.0 Priority will be given to questions about matters on the agenda for the meeting and which are submitted in accordance with 4.0 above.

6.0 Every person who wishes to ask a question must identify themselves and register with a Council Officer immediately prior to the meeting. Subject to 5.0 above questions will be taken in the order in which people register.

7.0 Questions containing offensive remarks, reference to the personal affairs or actions of Elected Members or staff, or which relate to confidential matters or legal action will not be accepted. Questions that the Presiding Member considers have been answered by earlier questions at the meeting or earlier meetings may not be accepted.

8.0 On receipt of a question the Presiding Member may answer the question or direct it to the Chief Executive Officer to answer. If the question is of a technical nature the Chief Executive Officer may direct the question to a senior technical officer present. If the question requires research it will be taken on notice.

9.0 There will be no debate on the answers to questions.

10.0 A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.

11.0 Public Question Time guidelines incorporating this policy are being prepared and will include information on the other methods of enquiry that are available to members of the public to obtain information from the Shire.

Adopted 21 October 2013

Amended 17 September 2015

Amended 23 November 2015

Reviewed 24 October 2016





## Order Of Business

<b>1</b>	<b>Opening</b> .....	<b>8</b>
1.1	Declaration of Opening by the Chief Executive Officer .....	8
1.2	Disclaimer .....	8
1.3	Swearing in of Councillors-Elect/Declaration of Office .....	8
1.4	Standing Orders .....	8
1.5	Announcement of Visitors .....	8
1.6	Declarations of Interest that Might Cause a Conflict .....	8
1.7	Declaration of Financial Interests .....	9
1.8	Disclosure of Interests that may affect Impartiality.....	9
<b>2</b>	<b>Attendance</b> .....	<b>9</b>
2.1	Members .....	9
2.2	Staff .....	9
2.3	Apologies .....	9
2.4	Leave of Absence Previously Approved .....	9
2.5	Number of People in the Gallery at Commencement of Meeting .....	9
<b>3</b>	<b>Election of Shire President and Declaration of Office</b> .....	<b>9</b>
<b>4</b>	<b>Election of Deputy Shire President and Declaration of Office</b> .....	<b>10</b>
<b>5</b>	<b>Draw for Position at Council table</b> .....	<b>11</b>
<b>6</b>	<b>Public Question Time</b> .....	<b>11</b>
6.1	Written Questions – Current Agenda.....	12
6.2	Public Question Time .....	12
<b>7</b>	<b>Applications for Leave of Absence</b> .....	<b>12</b>
<b>8</b>	<b>Announcements by Presiding Member without Discussion</b> .....	<b>12</b>
<b>9</b>	<b>Closure</b> .....	<b>12</b>

## 1 Opening

## 1.1 Declaration of Opening by the Chief Executive Officer

In accordance with Clause 3 of Schedule 2.3 of the *Local Government Act 1995* the Chief Executive Officer is to preside at the meeting until the office of President is filled.

## 1.2 Disclaimer

The Chief Executive Officer advises the following:

*“The York Shire Council acknowledges the traditional owners of the land on which this meeting will be held.*

*This meeting is being recorded on a digital audio device to assist with minute taking purposes. The public is reminded that in accordance with Section 6.16 of the Shire of York Local Government (Council Meetings) Local Law 2016 that nobody shall use any visual or vocal recording device or instrument to record the proceedings of Council without the written permission of the presiding member.*

*I wish to draw attention to the Disclaimer Notice contained within the agenda document and advise members of the public that any decisions made at the meeting today, can be revoked, pursuant to the Local Government Act 1995.*

*Therefore members of the public should not rely on any decisions until formal notification in writing by Council has been received. Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.”*

## 1.3 Swearing in of Councillors-Elect/Declaration of Office

All Councillors-Elect are required to undertake a Declaration to Office in accordance with Section 2.29 of the *Local Government Act 1995*, Section 13 of the *Local Government (Constitution) Regulations 1998* and the *Oaths, Affidavits and Statutory Declarations Act 2005* before acting in the office.

The Chief Executive Officer will invite Mr Gordon Marwick JP, Freeman of the Shire of York to perform the Swearing In Ceremony for the Councillors-Elect and witness the Declaration of Office.

Councillors-Elect are welcome to invite family and friends to attend the meeting to witness the Swearing In Ceremony.

## 1.4 Standing Orders

*Nil*

## 1.5 Announcement of Visitors

*Mr Gordon Marwick JP, Freeman of the Shire of York*

## 1.6 Declarations of Interest that Might Cause a Conflict

Councillors/Staff are reminded of the requirements of s5.65 of the *Local Government Act 1995*, to disclose any interest during the meeting when the matter is discussed and also of the requirement to disclose an interest affecting impartiality under the Shire of York's Code of Conduct.

Name	Item No & Title	Nature of Interest (and extent, where appropriate)



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### 1.7 Declaration of Financial Interests

A declaration under this section requires that the nature of the interest must be disclosed. Consequently a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.

Other members may allow participation of the declarant if the member further discloses the extent of the interest and the other members decide that the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.

Name	Item No & Title	Nature of Interest (and extent, where appropriate)

### 1.8 Disclosure of Interests that may affect Impartiality

Councillors and staff are required (Code of Conduct), in addition to declaring any financial interest, to declare any interest that might cause a conflict. The member/employee is also encouraged to disclose the nature of the interest. The member/employee must consider the nature and extent of the interest and whether it will affect their impartiality. If the member/employee declares that their impartiality will not be affected then they may participate in the decision making process.

Name	Item No & Title	Nature of Interest (and extent, where appropriate)

## 2 ATTENDANCE

2.1 Members

2.2 Staff

2.3 Apologies

2.4 Leave of Absence Previously Approved

*Nil*

2.5 Number of People in the Gallery at Commencement of Meeting

## 3 ELECTION OF SHIRE PRESIDENT AND DECLARATION OF OFFICE

The Chief Executive Officer will call for nominations for the position of President of the Council for the ensuing two (2) years and the election will be undertaken.

Schedule 2.3 provides the legislative framework for how the position of President is filled by Council:

1. Council is to elect a Councillor to fill the office.
2. The election is to be conducted by the Chief Executive Officer in accordance with the procedure prescribed.

3. Nominations for the office are to be given to the Chief Executive Officer in writing before the meeting or during the meeting before the close of nominations.
4. Nominations close at the meeting at a time announced by the Chief Executive Officer, which is to be a sufficient time after the announcement by the Chief Executive Officer that nominations are about to close to allow for any nominations made to be dealt with.
5. If a Councillor is nominated by another Councillor the Chief Executive Officer is not to accept the nomination unless the nominee has advised the Chief Executive Officer, orally or in writing, that he or she is willing to be nominated for the office.
6. The Councillors are to vote on the matter by secret ballot as if they were electors voting at an election.
7. The votes cast are to be counted and the successful candidate determined in accordance with Schedule 4.1 (which deals with determining the result of an election) of the *Local Government Act 1995* as if those votes were votes cast at an election.
8. As soon as is practicable after the result of the election is known, the Chief Executive Officer is to declare and give notice of the result in accordance with Regulations, if any.

On receiving nominations and undertaking the election process the newly Elected Shire President will be required to be declared into office in accordance with the *Local Government Act 1995* and *Local Government (Constitution) Regulations 1998*.

Mr Gordon Marwick JP, Freeman of the Shire of York will perform the Swearing In Ceremony and witness the Declaration of Office.

At the conclusion of electing the Shire President, the President will 'take the chair'.

#### **4 ELECTION OF DEPUTY SHIRE PRESIDENT AND DECLARATION OF OFFICE**

The Shire President will call for nominations for the position of Deputy Shire President of the Council for the ensuing two (2) years and the election will be undertaken.

Schedule 2.3 provides the legislative framework for how the position of Deputy Shire President is filled by Council:

1. Council is to elect a Councillor to fill the office.
2. The election is to be conducted by the Chief Executive Officer in accordance with the procedure prescribed.
3. Nominations for the office are to be given to the Chief Executive Officer in writing before the meeting or during the meeting before the close of nominations.
4. Nominations close at the meeting at a time announced by the Chief Executive Officer, which is to be a sufficient time after the announcement by the Chief Executive Officer that nominations are about to close to allow for any nominations made to be dealt with.
5. If a Councillor is nominated by another Councillor the Chief Executive Officer is not to accept the nomination unless the nominee has advised the Chief Executive Officer, orally or in writing, that he or she is willing to be nominated for the office.
6. The Councillors are to vote on the matter by secret ballot as if they were electors voting at an election.
7. The votes cast are to be counted and the successful candidate determined in accordance with Schedule 4.1 (which deals with determining the result of an election) of the *Local Government Act 1995* as if those votes were votes cast at an election.
8. As soon as is practicable after the result of the election is known, the Chief Executive Officer is to declare and give notice of the result in accordance with Regulations, if any.

On receiving nominations and undertaking the election process the newly Elected Deputy Shire President will be required to be declared into office in accordance with the *Local Government Act 1995* and *Local Government (Constitution) Regulations 1998*.

Mr Gordon Marwick JP, Freeman of the Shire of York will perform the Swearing In Ceremony and witness the Declaration of Office.

At the conclusion of electing the Deputy Shire President, the Deputy Shire President will 'assume their chair'.

## 5 DRAW FOR POSITION AT COUNCIL TABLE

Clause 8.1 of the Shire's *Local Government (Council Meetings) Local Law 2016* states:

***"Members to be in their proper places***

- (1) *At the first meeting held after each election day, the CEO is to allot, alphabetically, a position at the Council table to each member.*
- (2) *Each member is to occupy his or her allotted position at each Council meeting."*

As such, a draw will be conducted for each position at the Council table.

## 6 PUBLIC QUESTION TIME

Public Question Time is conducted in accordance with the *Local Government Act 1995* and Regulations. In addition to this the Shire's *Local Government (Council Meetings) Local Law 2016* states:

### **6.7 Other procedures for question time for the public**

- (1) A member of the public who wishes to ask a question during question time must identify themselves and register with a Council Officer immediately prior to the meeting.
- (2) A question may be taken on notice by the Council for later response.
- (3) When a question is taken on notice the Chief Executive Officer is to ensure that—
  - (a) a response is given to the member of the public in writing; and
  - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
  - (a) declare that he or she has an interest in the matter; and
  - (b) allow another person to respond to the question.
- (5) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.
- (6) Where a member of the public provides written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
- (7) The Presiding Member may decide that a public question shall not be responded to where—
  - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
  - (b) the member of the public uses public question time to make a statement, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or

- (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (8) A member of the public shall have 2 minutes to submit a question.
- (9) The Council, by resolution, may agree to extend public question time.
- (10) Where any questions remain unasked at the end of public question time they may be submitted to the Chief Executive Officer who will reply in writing and include the questions and answers in the agenda for the next ordinary Council meeting.
- (11) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

6.1 Written Questions – Current Agenda

*Nil*

6.2 Public Question Time

*In accordance with Regulation 7(b) of the Local Government (Administration) Regulations 1996 all questions asked at this meeting must relate to the purpose of the meeting (please refer to the front page) for the purpose).*

**7 APPLICATIONS FOR LEAVE OF ABSENCE**

**8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

**9 CLOSURE**