

# WYNDHAM MEETING PROCEDURE PROTOCOL 2013

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*This policy complies with the Charter of Human Rights and Responsibilities Act 2006*

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## 1. Purpose

The purpose of this Protocol is to regulate the proceedings of meetings of the Council and special committees.

## 2. Definitions

In this Protocol:

**“Act”** means the Local Government Act 1989.

**“Agenda”** means a document containing the date time and place of a Meeting and a list of business to be transacted at the Meeting.

**“Business Day”** means a day that is not a Saturday or Sunday or a public holiday.

**“Chairperson”** means the person who chairs a Meeting.

**“Chief Executive Officer”** means the person who is the Chief Executive Officer (CEO) of the Council or any person acting in that position.

**“Council”** means the Wyndham City Council.

**“Mayor”** means the Mayor of the Council and any other Councillor acting as Mayor in the absence of the Mayor.

**“Meeting”** means a meeting of the Council or a special committee of the Council.

**“Notice of Motion”** means a notice setting out the text of a motion which a Councillor proposes to move at a Meeting.

**“Officer”** means an employee of the Council.

**“Protocol”** means Wyndham’s Meeting Procedure Protocol incorporated by reference into Wyndham’s Governance Local Law 2013.

**“Special Committee”** means a special committee of the Council appointed under section 86 of the Act.

## 3. Responsibilities of CEO

The responsibilities of the CEO under this Protocol are contained in Schedule 1.

## 4. Quorum

(1) The quorum for a meeting is that prescribed in section 91(3A) of the Act being at least a majority of the members of the Council or the special committee.

(2) A meeting cannot commence, resume or continue without a quorum.

## 5. Business at Meetings

(1) No business can be dealt with at an Ordinary Council Meeting unless it is included in the Agenda for the Meeting or it is considered to be urgent business.

(2) The order of business at a Meeting must be as set out in the Agenda but may be varied by the Chairperson or by resolution of the Council.

- (3) If the order of business is varied, the Chairperson must advise the public in attendance at the meeting of that change as soon as practicable.
- (4) Unless the Council determines otherwise, the way in which an item on the Agenda will be addressed is:
  - (a) the Chairperson may ask the nominated Officer to introduce the report relating to the item which will be limited to no more than 2 minutes;
  - (b) the CEO will read any public questions that have been submitted in relation to the item and the Chairperson will determine which Councillor will respond to the question or the CEO will determine which Officer will respond to the question if required;
  - (c) the Chairperson will ask if any Councillor wishes to clarify any matter relating to the item with the Officer; and
  - (d) the Chairperson will then move the item into the formal procedures in clause 11.
- (5) Unless the Council resolves to extend the Meeting, the Meeting must conclude no later than 10:30pm.
- (6) A Councillor may propose that the Meeting be extended by no more than half an hour but the Chairperson must not accept more than 3 such notices at the Meeting to extend the meeting time.

## **6. Urgent Business**

- (1) The majority of Councillors present at the meeting may resolve to deal with a matter that is not on the Agenda as urgent business.
- (2) A matter will be considered urgent if it cannot reasonably be deferred for inclusion in the Agenda of the next Meeting of the Council.

## **7. Delegates Reports**

- (1) There must be an item on the Agenda for Delegate's Reports where a Councillor appointed to be the Council's representative on external groups or organisations or appointed to advisory committees of the Council may provide a verbal Delegate's Report to the Council.
- (2) When presenting a Delegate's Report, a Councillor must not speak for longer than 3 minutes unless the agreement of the Chairperson to speak for a longer period of time has been obtained before noon on the day of the Meeting.

- (3) A Councillor should include information in the Delegate's Report about changes or developments that the Councillor has become aware of, that could be important or relevant to the Council. The Councillor may table confirmed minutes of the Advisory Committee, group or organisation to support their report.

## **8. Confirmation of the Minutes of a Meeting**

- (1) When confirming the minutes of a Meeting, the Chairperson must ask if any item in the minutes is opposed.
- (2) A Councillor may only express opposition to an item in the minutes on the basis that the record is incomplete or inaccurate.
- (3) If a Councillor indicates opposition, he or she must specify the particular item in the minutes and may, after asking any questions to clarify the matter, only move a motion to correct the alleged error in the record.
- (4) If no Councillor indicates opposition, the Chairperson must call for a motion for the minutes to be confirmed.
- (5) The Chairperson must not allow discussion or motions on any other issue than the alleged omission from or inaccuracy of the minutes.

## **9. Form of Motions**

- (1) A motion or amendment which is proposed by a Councillor at a Meeting must be:
  - (a) Clearly expressed and unambiguous;
  - (b) Not be objectionable in nature;
  - (c) Related to the powers or functions of Council; and
  - (d) Relevant to an item on the Agenda including an item which has been agreed to by Council as urgent business.
- (2) A motion or amendment which is different from the wording in a recommendation or notice of motion which is on the Agenda must, if requested by the Chairperson, be written out by the proposer.
- (3) A motion or amendment which is contrary to subclause (1) must be rejected by the Chairperson.

## 10. Notices of Motion

- (1) A Councillor may submit a notice of motion in writing, which includes by email or facsimile, to the CEO and this must be prior to 9pm on the 5th business day before the Meeting at which the Councillor wants the notice of motion to be considered. Prior to this time, advice on the wording may be sought by the Councillor, or provided by the CEO.
- (2) A notice of motion that has not been submitted in accordance with subclause (1) will not be included in the Agenda for the Meeting.
- (3) The CEO will review the notice of motion to ensure that:
  - (a) It is not contrary to the requirements in clauses 9(1)(a) – (c); and
  - (b) It is not contrary to a previous decision of the Council or Council Policy.
- (4) Before a notice of motion is included in the Agenda for the meeting:
  - (a) All the processes will comply with the requirements in clause 10 of this Protocol;
  - (b) Appropriate advice and assistance may be provided to a Councillor in relation to a notice of motion;
  - (c) The motion is assessed to determine whether it is consistent with any decisions or policies previously adopted by the Council; and
  - (d) The Mayor and Councillors are advised in writing of the notice of motion within 24 hours of its receipt, and
  - (e) Councillors should ideally have an opportunity to discuss the Notice of Motion together at an Organisational Briefing on the day of lodgement listed in Clause 10 (1).
  - (f) As the CEO is responsible for preparing and authorising the Agenda for a Council Meeting, and subject to the processes outlined in this Protocol, he/she may reject a notice of motion after giving the Councillor submitting the proposed notice of motion an opportunity to amend it, if it is practicable to do so.

## 11. Procedures for Motions and Amendments

- (1) The procedure for a motion or an amendment to a motion is:
  - (a) A Councillor who is proposing a motion or amendment to a motion must briefly state the nature of the motion or amendment and then move the motion or amendment without speaking to it.
  - (b) The Chairperson must then call for the motion or amendment to be seconded, unless it is a point of order or a formal motion, by any Councillor other than the mover, and if the motion or amendment is not seconded, it lapses. The mover must then speak immediately to the motion or amendment (whichever motion is before the Chairperson) or with the consent of the Chairperson, defer speaking to it until later in the debate.

- (c) After the motion or amendment has been moved and seconded, and the mover of the motion or amendment has spoken, the Chairperson must ask if the motion is opposed and if there is no opposition, the Chairperson may ask if any Councillor wishes to add anything further to the debate prior to putting the motion to the vote without any further debate.
  - (d) If the motion is opposed, the Chairperson must first ask the Councillor who has indicated opposition to the motion to speak, then ask for a Councillor in favour of the motion to speak and continue this process of alternating speakers for and against the motion until there are no more speakers.
  - (e) The Chairperson will then ask whether any other Councillor who has not spoken for or against the motion wishes to add anything further to the debate. If no other Councillor wishes to speak, other than the mover of the motion who may exercise or waive their right of reply immediately before the vote is taken, the Chairperson will put the motion to the vote.
  - (f) The mover and seconder of an amendment do not have a right of reply.
  - (g) The mover of the motion does not have a right of reply to the substantive motion, if an amendment to the motion has been carried.
  - (h) If there is no speaker against a motion then the mover of the motion will not have a Right of Reply
  - (i) The mover and seconder to Amendments, Foreshadowed Motions, as well as Closure or Adjournment Motions do not have Right of Reply.
- (2) The Chairperson may undertake a recount of the votes cast as often as necessary to be satisfied of the result of the vote on a matter.
  - (3) Once a motion or amendment is seconded it cannot be withdrawn or amended, except with the leave of the Chairperson and the consent of both the mover and seconder.
  - (4) If the mover or seconder of a motion or an amendment indicates that he or she wishes to withdraw from moving or seconding the motion or amendment, the Chairperson may seek another mover or seconder (as the case requires), but if no Councillor indicates his or her willingness to be the substitute mover or seconder, the motion lapses.
  - (5) Apart from the mover's right of reply, a Councillor may only speak once on the motion and once on any amendment to the motion.
  - (6) Before putting a motion or amendment to the vote, the Chairperson may have the text of the motion or amendment read to the Meeting, unless the exact wording is in writing and available to all Councillors.

- (7) Additional limitations applying to an amendment to a motion are:
- (a) Only one amendment can be before the Meeting at a time and until it is put to the vote no further amendment can be proposed, but with the leave of the Chairperson, another amendment or a new motion can be foreshadowed by any Councillor stating in brief terms the nature of it.
  - (b) Any Councillor, excluding the mover or seconder of a motion or an amendment, may move or second an amendment or any further amendment.
  - (c) The mover of an amendment has no right of reply.
  - (d) When an amendment is put to the vote and is declared carried by the Chairperson it becomes the motion and can be further amended.
- (8) At any time during the debate on a motion or amendment the Chairperson may ask whether the motion or amendment before the Meeting is opposed or is further opposed and if no opposition or no further opposition is indicated, he or she may put it to the vote without further debate.
- (9) A Councillor may request at any time before a vote is taken on a motion or amendment which is in two or more parts, that each part be put to the vote separately. The Chairperson may agree with or refuse the request.
- (10) A motion or amendment must otherwise be put to the vote when the Chairperson believes that the issues have been reasonably canvassed in the debate.
- (11) A Councillor calling a point of order or foreshadowing a new motion or further amendment or making a request under sub-clause (9) is not deemed to be speaking on the motion or amendment before the Meeting.

## **12. Revocation or Alteration of Previous Resolutions**

- (1) A motion to revoke or alter a previous resolution of the Council can be made by:
- (a) A notice of motion; or
  - (b) A recommendation contained in an Officer's report included in the Agenda.
- (2) A motion that proposes the revocation or alteration of a previous resolution of the Council must be included on the Agenda for the Meeting at which it is to be considered and must not be proposed as an item of urgent business.
- (3) A previous resolution can only be revoked if it has not been acted upon.



### **13. Formal Motions**

- (1) Two types of formal motions are permitted under this Protocol being:
  - (a) "closure of debate"; and
  - (b) "adjourning the debate".
- (2) A formal motion must be dealt with immediately by the Chairperson.
- (3) A formal motion is not required to be seconded.
- (4) The mover of a formal motion must not have moved, seconded or spoken to the motion before the Chairperson or any amendment of it.
- (5) A formal motion must not be moved by the Chairperson.

### **14. Formal motion for Closure of Debate**

- (1) A motion "That the motion be now put":
  - (a) Is a formal motion which if carried in respect to a motion, that motion must be put to the vote immediately without any further debate, discussion or amendment;
  - (b) If carried in respect to an amendment, that amendment must be put to the vote immediately without any further debate or discussion and debate on the substantive motion may continue unaffected; and
  - (c) If lost, debate may continue unaffected.
- (2) No debate is permitted and the mover does not have a right of reply.
- (3) The motion cannot be amended.
- (4) The Chairperson may reject this motion if he or she believes that the motion on which it is proposed has not been sufficiently debated.

### **15. Formal motion for Adjournment of Debate**

- (1) A motion "That the debate be adjourned" is a formal motion on which debate is permitted but, which may only be amended in relation to the time, date and place of the proposed adjournment.
- (2) A motion "That the debate be adjourned" must not be moved while any person is speaking or during the election of a Chairperson.
- (3) The mover does not have a right of reply.

## 16. Points of Order <sup>1</sup>

- (1) A Councillor may make a point of order at any time during the Meeting if he or she considers that the Governance Local Law, this Protocol or the Councillor Code of Conduct is not being complied with.
- (2) The Chairperson must request the Councillor making the point of order to identify the basis upon which they are making the point of order including a reference to any provision in the Governance Local Law, this Protocol or the Councillor Code of Conduct.
- (3) The Chairperson must not allow the point of order if the Councillor making it cannot identify the basis upon which they are making the point of order under subclause (2).
- (4) When a point of order is made the Councillor speaking at the time must stop (unless asked by the Chairperson for an explanation), until the Chairperson rules upon it.
- (5) The Chairperson may adjourn the Meeting to consider a point of order which has been made and must rule upon it as soon as possible and before the business of the Meeting proceeds further.
- (6) The Chairperson must when ruling upon a point of order state the provision of this Protocol or other legislation, rule, custom or practice upon which he or she is basing the ruling.

## 17. Time Limits for Debate

A Councillor must not speak on any one motion or amendment or other matter before a Meeting for a time longer than that stated below unless granted an extension by the Chairperson:

- (a) The mover of a motion or an amendment - 5 minutes;
- (b) Any other Councillor - 3 minutes, and
- (c) The mover of a motion exercising a right of reply - 2 minutes

## 18. Mode of Address

A Councillor or any other person who addresses a Meeting must do so in a courteous manner.

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<sup>1</sup> The Information Sheet for Council Meetings: Common Points of Order contains additional information.

## 19. Miscellaneous Rules of Debate

- (1) If the debate is adjourned by a formal motion, then the Councillor or member of a special committee who moved the adjournment has the right to speak first when the debate is resumed and no other Councillor or member of a special committee who has already spoken is permitted to speak again except with the leave of the Chairperson.
- (2) A Councillor must not be interrupted except by the Chairperson or upon a point of order being made.
- (3) The Chairperson may speak on any matter under discussion but must vacate the Chair while they are speaking on the matter, except for a matter under clause 22(5).
- (4) When exercising a right of reply, a Councillor must not introduce fresh matter.
- (5) No resolution may be discussed after it has been carried unless the Chairperson allows it.

## 20. Divisions

- (1) At any Meeting a division may be called by a Councillor immediately after the Chairperson has put any motion, amendment or other question to the vote and has announced the result of that vote.
- (2) The calling of a division sets aside the result of the voting announced by the Chairperson.
- (3) When a division has been called, the Chairperson must –
  - (a) Ask Councillors voting in the affirmative to hold up their hands then announce the names of those Councillors;
  - (b) Ask for those voting in the negative to hold up their hands then announce the names of those Councillors.
- (4) The names of Councillors voting in the affirmative and in the negative must be recorded in the minutes of the Meeting.
- (5) No Councillor is prevented from changing his or her original vote on the division, and the voting by division will determine whether the motion or amendment is carried or is lost.
- (6) The Chairperson must announce the result of the vote immediately after the division is taken.

## **21. Recording of Opposition to a Vote**

At any Meeting a Councillor may ask that his or her name be recorded in the minutes as having voted in the negative, immediately after the Chairperson has put any motion, amendment or other question to the vote and has announced the result of that vote.

## **22. Chairperson's Ruling**

- (1) Where this Protocol does not provide a procedure for a Meeting, the Chairperson shall decide the procedure to be followed.
- (2) When the Chairperson makes a ruling during a Meeting, any motion dissenting from the Chairperson's ruling must be moved immediately.
- (3) The Chairperson is not required to stand down during the debate and vote on a dissent motion.
- (4) The Chairperson is bound by the result of the motion of dissent.
- (5) If the Chairperson's ruling on a matter is defeated that is not to be taken as a vote of no confidence in the Chairperson.

## **23. Conduct at Meetings**

- (1) A Councillor must not make any indecent, abusive, offensive or disorderly statement or comment during the Meeting.
- (2) If a Councillor makes a statement or comment in contravention of subclause (1), the Chairperson may require the Councillor to withdraw it and the Councillor concerned must immediately and unreservedly do so.
- (3) A member of the public present in the gallery at a Meeting must:
  - (a) Remain silent and must not interject or take part in the debate and may only speak when the Chairperson invites them to do so.
  - (b) When addressing the Council extend due courtesy and respect to the Council and the processes under which it operates;
  - (c) Take direction from the Chairperson when called upon to do so.
- (4) If a member of the public present in the gallery is called to order by the Chairperson for any improper or disorderly conduct more than once during the Meeting, the Chairperson may order him or her to leave the Meeting room or building.

- (5) The Chairperson may adjourn a disorderly Meeting and may order that a person including a Councillor who fails to comply with a direction remove themselves from the Meeting.
- (6) If a Councillor or a member of the public present in the gallery continues to disrupt the meeting, the Chairperson or the CEO may obtain the assistance of the Police to ensure that the order of the Meeting is maintained or that the safety of any person at the Meeting is not at risk.

## **24. Suspension of Standing Orders**

- (1) Any provision of this Protocol, except that relating to a quorum, may be suspended for any part of a Meeting by resolution of the Council.
- (2) No motion, except one which proposes the resumption of standing orders, may be accepted by the Chairperson during such suspension.

## **25. Public Participation and Public Question Time**

- (1) The Chairperson and Councillors, while encouraging public participation in a Meeting through the submission of questions, acknowledge that the Meeting is the primary decision-making forum of the Council and that there are a number of ways in which members of the public can participate in matters being considered by the Council.<sup>2</sup>
- (2) Questions in writing in the form provided by the CEO will be accepted up to the commencement of the meeting.
- (3) Question time will take place prior to the end of the meeting unless a question submitted by a member of the public relates to an item on the Agenda, in which case the question will be responded to in accordance with clause 5(4).
- (4) The Chairperson may allow up to 30 minutes for public question time having regard to subclause (1) and business that is remaining on the Agenda.
- (5) A maximum of 2 questions may be submitted by any one person.
- (6) A maximum of 2 questions will be heard on any one subject unless the Chairperson, having regard to subclause (1), considers that further questions may be submitted following which the Chairperson will proceed to the next subject, but may return to the previous subject if time allows.

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<sup>2</sup> Examples of additional ways in which participation can occur in matters being considered by the Council or information can be obtained include matters under the Local Government Act 1989 where Council must give public notice under section 223 of the Act – Council budget, making local laws and submissions under the Planning & Environment Act, the Freedom of Information Act.

- (7) The Chairperson will determine which Councillor will respond to a question from the public. If the Chairperson decides that he or she will respond, the Chairperson may vacate the Chair while the response is being provided. If necessary, the CEO will determine which Officer will respond to a question from the public.
- (8) A person submitting questions must be present in the public gallery.
- (9) If the number of questions exceeds the time available for public questions time in this Protocol, further questions will be noted and responded to in writing after the Meeting.

## 26. Petitions

- (1) To facilitate a request by a member of the public for information or action in relation to a particular matter, a written petition to the Council must be in accordance with the *Guidelines for Petitions* which are incorporated by reference in the Governance Local Law.  
In addition to these Guidelines for Petitions, and so that Council is in the best position to provide adequate and accurate information:
  - (a) A petition with notice signed by more than 15 people, that is submitted before noon on the 5th business day prior to the next Council Meeting, will be responded to in a report submitted to the Meeting which will also be included in the minutes of the Meeting, and
  - (b) A petition without notice (that is as petition without notice submitted after noon on the 5<sup>th</sup> business day prior to the next Council Meeting and up to the commencement of the Meeting), will be read to the Meeting by the Chairperson but will not be responded to in a report at the Meeting. A written response will be provided after the Meeting by the CEO if the petition is signed by less than 15 people, or if it is signed by more than 15 people, it will be listed for a report at the next Council Meeting.

## Schedule 1 – Responsibilities of the CEO

The responsibilities of the CEO under this Protocol are to ensure that:

1. Notice of the date, time and place of Council Meetings and Special Committee Meetings including adjourned Council and Special Committee Meetings is given to the public.
2. An agenda is prepared and given to Councillors and members of special committees by noon on the 5th business day prior to the next Council Meeting or special committee meeting.
3. A Councillor Delegates' Attendance Listing which lists all Councillor attendances at Meetings including advisory committee meetings and assemblies of Councillors, is provided for noting during the Delegates Report item on the Agenda.
4. The minutes of each Council Meeting and special committee meeting are kept.
5. A copy of the minutes is given to Councillors and members of special committees by noon on the 5th business day prior to the next Council Meeting or special committee meeting at which those minutes are to be confirmed.
6. Notices of motion are included on the agenda for that Meeting in order of their receipt.
7. A register of notices of motion is kept.
8. Meetings are conducted in conformity with the Act, the Governance Local Law and this Protocol.

## Schedule 2: Guidelines for Petitions 2013

In support of Council's Meeting Procedure Protocol, these Guidelines for Petitions are provided to assist the community and Council staff to lodge and process petitions.

### **How are petitions considered by Council?**

- A petition is a written request from members of the public for information or action in relation to a particular matter, from more than one person and signed by the persons whose names and addresses appear on the petition
- All petitions are to be tabled at a Council Meeting
- If a petition with notice is addressed to a specific Councillor, that Councillor may read the petition out at a Council Meeting without debate, otherwise the CEO will read out all other petitions
- Where a petition has been signed by less than 15 people, it is noted at the Council Meeting, and then forwarded by the CEO to the appropriate member of Council staff for action and a response
- A copy of the Officer response to petitions signed by less than 15 people will be provided to Councillors no later than 1 business day after the response has been sent to petitioners
- If a petition is signed by more than 15 people, it is noted at a Council Meeting and unless a response can be provided by the CEO at that time, the petition is forwarded by the CEO to the appropriate Director for action. A report is then presented to a subsequent Council Meeting, including Council's response
- Council staff will deal with the petition organiser (or the first named signatory) as appropriate to clarify any of the issues raised in the petition
- All petitions presented to Council are then subject to a Quarterly Ordinary Council Meeting Report, updating Council on the actions of Council staff, and
- In accordance with Council's commitment to privacy, only the issues raised in the petition, along with the number of signatories, will be presented to Council and included in the Agenda and Minutes.

For a petition to be presented at a Council Meeting, the Requirements of a Petition included on the next page must be met.



### **How to write a petition?**

A sample Petition has been provided at the end of these guidelines.

### **How are petitions relating to Town Planning applications handled?**

Any petition referring to specific Town Planning applications will not be viewed as a petition, but a joint submission. This is because:

- Council has a range of separate legal requirements (under the Planning and Environment Act 1987), such as notice and time limits relating to Town Planning applications, and
- Council is required to consider each individual matter on its planning merits.

### **Requirements of a petition**

A petition will be presented at a Council Meeting only if it meets all of the following requirements:

- Although initial copies of petitions can be conveyed by email or facsimile, the original document must be sighted and received by Council in a hardcopy format
- The petition must be legible and in permanent writing (i.e. no pencil)
- The petition must be in the English language, or accompanied by a translation, which will need to be certified by the CEO who will present it to be correct
- The petition must be addressed to the CEO, the Mayor, or a Councillor, containing a request for action to be taken by Council
- Each page of the petition must repeat the full wording of the petition as contained on the first page of the petition
- Any signature appearing upon a page which does not bear the whole of the petition or request will not be considered by Council
- In addition to the signatures of the petitioners, the names and residential addresses of all persons who signed the petition must be provided
- All signatures must be original signatures, not photocopied, scanned or faxed copies
- The petition should not be indecent, abusive or objectionable in language or content
- The petition should not relate to a Town Planning Application, and
- Every page of a petition, including signatories to the Petition must be on an original piece of paper and not pasted, stapled, or otherwise affixed to any other piece of paper.

### **How to lodge a petition?**

Petitions should be forwarded by mail to Wyndham City Council via at PO Box 197, Werribee Vic 3030 or delivered in person to the Wyndham City Civic Centre, 45 Princes Highway, Werribee.

**See the next page for a suggested Sample Petition.**

