

7.4 Urgent Business – Councillor Motion regarding Rainbow Flag

Motion

1. That Council immediately initiates a comprehensive process of consultation with the local community to determine whether Surf Coast Shire citizens support Council flying the rainbow flag or otherwise lobbying or attempting to influence the Australian Government on the issue of marriage equality.
2. That as part of the community consultation process, Council immediately:
 - a. writes to the not-for-profit business, trading and community associations that represent the various geographic communities located in the Shire to inquire:
 - i. about their general attitude to Council engaging in public commentary and/or lobbying about issues that are the specific legislative responsibility of the federal or state government and have no immediately obvious nexus with Council's roles or responsibilities;
 - ii. if they support Council engagement in such activities, how they suggest Council should identify priority topics; and
 - iii. whether they support Council flying the rainbow flag until the federal government approves marriage equality;
 - b. commissions a reputable and experienced third party to survey the community on the issues listed above, utilising a statistically valid sampling methodology similar to that used for the annual local government community satisfaction survey;
 - c. communicates in writing with all residents and ratepayers, inviting submissions on the issues listed above; and
 - d. holds a meeting to hear submissions in each ward of the Shire.
3. That the outcomes of the community consultation process, including information about the attitudes of different towns in the Shire, are reported at a public meeting of Council.
4. That Council immediately lowers the rainbow flag currently flying over the Shire offices in Torquay and does not raise it again on any Shire facility unless it resolves to do so following consideration of the results of the community consultation process described above.
5. That if Council resolves to fly the rainbow flag in the future, it identifies an appropriate location that does not result in the rainbow flag taking precedence over the Australian, Victorian and/or Indigenous flags.

Rationale

A *mandate* is the authority granted by a constituency to act as its representative. Council's constituency is the entire Surf Coast Shire community.

Under section 51(xxi) of the *Commonwealth of Australia Constitution Act*, the Australian Parliament holds the power to legislate on marriage.

Council is established by State Government legislation. A Council mandate to act may arise because:

- the State Government has allocated Council a legislative or administrative power; or
- the local community has indicated an expectation that Council will act on a particular issue.

While Council has a role in advocating the interests of the local community, good governance requires it to advocate in accordance with community priorities, not the priorities or beliefs of individual councillors or of particular sections of the community in the absence of broad community support for such advocacy. It is entirely inappropriate for Council to purport to represent the local community on any issue unless there is a reasonable basis for concluding that the local community wishes to be represented in that way.

Council has always been proud of its community engagement practices. It is extremely uncharacteristic of Council to make significant decisions, such as flying a flag to attempt to force change in federal government policy and Australian law, without systematic community consultation to determine whether that action is supported by the local community. This is political, not social advocacy, and it is a highly divisive act unless there is clear community consensus to support it.

It has become very clear that there is deep division within the community about Council's recent decision to fly the rainbow flag continuously from 17 May 2017 (IDAHOT Day) until formal acceptance of marriage equality by the Federal Government. That division creates the necessary justification for Council to undertake a systematic process of community consultation to determine whether it should use Shire/community facilities for that purpose.

The purpose of community consultation is not to ask the Surf Coast Shire community whether it supports marriage equality or a change in Australian law. It is to ask the community whether it wishes the Shire to represent it in the way it is currently being represented, by flying a flag on its civic building.

Because the Shire offices are the 'town hall' for the entire Shire, Council should seek to understand the attitudes of different communities within the Shire, as well as of the overall Shire population.

Given the obvious propensity for community feedback on this issue to be skewed by groups with specific but not necessarily representative interests, it is appropriate to use a survey conducted by an independent agency in accordance with a statistically valid sampling methodology to test community views. This will provide an ideal vehicle, together with Council's usual methodologies of direct consultation and submissions processes, to determine local community views on this matter.

Council should not fly the rainbow flag from any Shire facility unless it confirms that there is a clear mandate from the local community to do so.

I commend this motion to Council.

Cr Heather Wellington

Council Resolution

MOVED Cr Heather Wellington, Seconded Cr Clive Goldsworthy

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5. That if Council resolves to fly the rainbow flag in the future, it identifies an appropriate location that does not result in the rainbow flag taking precedence over the Australian, Victorian and/or Indigenous flags.

The mayor used his casting vote after the vote to result in carried 5:4.

CARRIED 5:4

Councillor *Cr Rose Hodge* called for division and votes were recorded as follows:

| <u>For</u> | <u>Against</u> | <u>Abstained</u> |
|-------------------|-----------------------|-------------------------|
| Mayor McKiterick | Cr Bell | Nil |
| Cr Goldsworthy | Cr Coker | |
| Cr McGregor | Cr Duke | |
| Cr Wellington | Cr Hodge | |

The mayor used his casting vote after the vote to result in carried 5:4.

CARRIED 5:4