



NOTICE OF SPECIAL COUNCIL MEETING

To: Mayor Jan-Claire Wisdom

Councillor Ian Bailey
Councillor Kirrilee Boyd
Councillor Nathan Daniell
Councillor Pauline Gill
Councillor Chris Grant
Councillor Linda Green
Councillor Malcolm Herrmann
Councillor John Kemp
Councillor Leith Mudge
Councillor Mark Osterstock
Councillor Kirsty Parkin
Councillor Andrew Stratford

Notice is hereby given pursuant to the provisions under Section 82 of the *Local Government Act 1999* (the Act) that a Special meeting of the Council will be held on:

Tuesday 21 April 2020

6.30pm

To be held in the Zoom virtual meeting room

Business of the meeting:

1. Electronic participation in Council Meetings (Notice 1/2020) – proposed compliance arrangements
2. Public Access and Public Consultation (Notice 2/2020) – proposed compliance arrangements

Notice of this meeting is supplied to Council Members under Section 83 of the Act.

Public notice of this meeting is supplied under Section 84 of the Act.

Following amendments to s90 of the Act, this meeting of the Council is taken to be conducted in a place open to the public given that the Council Members will be participating via electronic means and the public can access a live stream of the meeting via the link contained on Council's website.

A handwritten signature in black ink, appearing to read 'Andrew Aitken', written over a faint dotted line.

Andrew Aitken
Chief Executive Officer
17 April 2020



Adelaide Hills
COUNCIL

AGENDA FOR SPECIAL COUNCIL MEETING

Tuesday 21 April 2020

6.30pm

To be held in the Zoom virtual meeting room

ORDER OF BUSINESS

1. COMMENCEMENT

2. OPENING STATEMENT

“Council acknowledges that we meet on the traditional lands of the Peramangk and Kaurna people and we recognise their connection with the land.

We understand that we do not inherit the land from our ancestors but borrow it from our children and in this context the decisions we make should be guided by the principle that nothing we do should decrease our children’s ability to live on this land.”

3. APOLOGIES/LEAVE OF ABSENCE

3.1. Apology

3.2. Leave of Absence

4. DECLARATION OF INTEREST BY MEMBERS OF COUNCIL

5. PRESIDING MEMBER’S OPENING REMARKS

6. BUSINESS OF THE MEETING

6.1. Electronic participation in Council Meetings (Notice 1/2020) – proposed compliance arrangements

1. That the report be received and noted

2. In accordance with the Minister for Transport, Infrastructure and Local Government's Electronic Participation in Council Meetings Notice (No 1) 2020 (Notice No 1), pursuant to Section 302B of the Local Government Act 1999, Council amends the following documentation to facilitate participation by Council Members via electronic means:

a. Effective immediately to suspend the 28 January 2020 Code of Procedure for Council Meeting Procedures and to adopt the revised April 2020 Code of Procedure for Council Meeting Procedures, as contained in Appendix 3.



Adelaide Hills
COUNCIL

- b. *Effective immediately to suspend the 23 April 2019 Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents and to adopt the revised April 2020 Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents, as contained in Appendix 4.*
- c. *Effective immediately to suspend the 22 November 2016 Informal Council and Council Committee Gatherings and Discussions and to adopt the revised April 2020 Informal Council and Council Committee Gatherings and Discussions, as contained in Appendix 5.*
3. *That, upon the expiry of the provisions of Notice No 1, the revised documents in 2. above cease and the suspended documents in 2. above be reinstated.*
4. *That, as from 21 April 2020 and until the expiry of the provisions of Notice No 1, meetings of the Council will take place by electronic means using the audio and visual functionality of the Zoom virtual meeting room as the electronic location.*

- 6.2. Public Access and Public Consultation (Notice 2/2020) – proposed compliance arrangements
Refer to Agenda Report

7. CONFIDENTIAL ITEM

Nil

8. CLOSE SPECIAL COUNCIL MEETING

**ADELAIDE HILLS COUNCIL
SPECIAL COUNCIL MEETING
Tuesday 21 April 2020
AGENDA BUSINESS ITEM**

Item:	6.1
Responsible Officer:	Lachlan Miller Executive Manager Governance & Performance Office of the Chief Executive
Subject:	Electronic participation in Council Meetings (Notice 1/2020) – proposed compliance arrangements
For:	Decision

SUMMARY

On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued *Electronic Participation in Council Meetings Notice (No 1) 2020* (Notice No 1) (**Appendix 1**) a notice pursuant to section 302B of the *Local Government Act 1999* (the Act) varying or suspending the operation of the specified provisions of the Act as set out in Schedule 1 to Notice No 1.

Notice No 1 commenced operation on 31 March 2020.

Notice No 1 provides variations to the Act to enable some or all Council Members to participate in Council meetings by electronic means, which was not permitted under the ordinary application of the Act. These changes provide Council with the ability to ensure the appropriate social distancing protocols can be adhered to due to the current COVID-19 pandemic. Council is required to alter its *Code of Practice for Council Meeting Procedures*, *Code of Practice for Access to Council*, *Council Committee and Designated Informal Gathering Meetings & Documents* and the *Informal Council and Council Committee Gatherings and Discussions Policy* to include the variations arising from Notice No 1.

Then purpose of this report is to advise Council on the contents of Notice No 1 and to seek the required changes to Council's relevant policy documents to enable participation by electronic means for Council meetings and Designated Informal Gatherings.

RECOMMENDATION

Council resolves:

- 1. That the report be received and noted**
- 2. In accordance with the Minister for Transport, Infrastructure and Local Government's *Electronic Participation in Council Meetings Notice (No 1) 2020* (Notice No 1), pursuant to Section 302B of the *Local Government Act 1999*, Council amends the following documentation to facilitate participation by Council Members via electronic means:**

- a. **Effective immediately to suspend the 28 January 2020 *Code of Procedure for Council Meeting Procedures* and to adopt the revised April 2020 *Code of Procedure for Council Meeting Procedures*, as contained in Appendix 3.**
 - b. **Effective immediately to suspend the 23 April 2019 *Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents* and to adopt the revised April 2020 *Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents*, as contained in Appendix 4.**
 - c. **Effective immediately to suspend the 22 November 2016 *Informal Council and Council Committee Gatherings and Discussions* and to adopt the revised April 2020 *Informal Council and Council Committee Gatherings and Discussions*, as contained in Appendix 5.**
3. **That, upon the expiry of the provisions of Notice No 1, the revised documents in 2. above cease and the suspended documents in 2. above be reinstated.**
 4. **That, as from 21 April 2020 and until the expiry of the provisions of Notice No 1, meetings of the Council will take place by electronic means using the audio and visual functionality of the Zoom virtual meeting room as the electronic location.**
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1. GOVERNANCE

➤ Strategic Management Plan/Functional Strategy/Council Policy Alignment

Goal	Organisation
Strategy	Governance

A key element of the Governance Strategy within the Strategic Plan is that Council 'is committed to open, participative and transparent decision making and administrative processes'.

The matters addressed herein provide options for Council to continue to meet and for the public to exercise their rights to attend public meetings in a responsible manner given the COVID-19 social distancing requirements.

Policies affected by Notice No 1 are:

- *Code of Procedure for Council Meeting Procedures*
- *Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents*
- *Informal Council and Council Committee Gatherings and Discussions*

➤ Legal Implications

Section 74 of the Act sets out the provisions for dealing with material conflicts of interest (MCOI). Prior to the commencement of Notice No 1, once a member declared a MCOI they were required to leave the meeting room such that they could not see or hear any discussion or voting at the meeting. With the amendments created by Notice No 1 (see **Appendix 2**) the member must disconnect from the electronic meeting.

Chapter 6, Parts 1-4 of the Act sets out the provisions relating to Council and Council Committee meetings (e.g. calling meetings, giving notice, quorum, procedures, informal gatherings, minutes and codes of practice). The bulk of Notice No 1 amends these provisions to the extent required to enable electronic participation.

It is important to note that Notice No 1 does not provide for the exclusion of the public from Council Committee meetings (via live streaming as for Council meetings) although Committee members have always had the ability to participate via electronic means subject to certain conditions being met.

➤ **Risk Management Implications**

Ensuring the currency of practical and legislatively compliant meeting and associated documentation arrangements will assist in mitigating the risk of:

Poor governance practices occur which lead to a loss of stakeholder (i.e. customer and regulator) confidence and/or legislative breaches.

Inherent Risk	Residual Risk	Target Risk
Extreme (5C)	Medium (3D)	Medium (3D)

Note that there are many other controls that assist in mitigating this risk.

➤ **Financial and Resource Implications**

There are negligible cost implications from preparations (i.e. software licencing) to enable the proposed electronic participation in meetings and savings will be realised in the catering and travel reimbursement costs normally associated with Council meetings and informal gatherings.

Similarly the overall resourcing impact will be negligible however Council Officers will be undertaking modified duties under the new arrangements.

➤ **Customer Service and Community/Cultural Implications**

Council meetings that are open to the public are a foundation of the democratic system of local government in South Australia notwithstanding that only a small proportion of the community avail themselves of the opportunity to attend.

A number of councils have voluntarily posted recordings of meetings on their websites and a smaller number posted video images and/or live streamed proceedings. These initiatives have, anecdotally, been well received by the respective communities, although again take up has been modest.

The provisions of Notice No 1 regarding electronic participation have the potential to enable a larger cohort of the community to access meeting proceedings, subject to digital literacy and internet connectivity. However, due to the social distancing restrictions, this comes at the cost of not being able to attend a Council meeting in person and, potentially, speaking in the public forum on a matter of interest.

➤ **Sustainability Implications**

Not applicable

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Council Workshops: The posting of recordings on Council’s website and/or live streaming meetings has been the subject of a number of workshop discussions in recent years.

Advisory Groups: Not Applicable

Administration: Executive Leadership Team
Manager Communications, Events and Engagement
Coordinator Service Strategy & Innovation
Governance & Risk Coordinator
Executive Assistant - Mayor & CEO

External Agencies: Advice on the implementation of electronic participation has been received from Norman Waterhouse Lawyers, Kelledy Jones Lawyers, the Office of Local Government, the Local Government Association and the LGA Governance & Policy Officers Network.

Community: Not Applicable

2. BACKGROUND

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to Section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to Section 302B of the *Local Government Act 1999* (Notice No 1) varying or suspending the operation of the specified provisions of the *Local Government Act 1999* as set out in Schedule 1 to Notice No 1 related to Electronic Participation in Council Meetings. Notice No 1 commenced operation on 31 March 2020.

3. ANALYSIS

Notice No.1 Provisions and Implications

Notice No 1 is the first notice made by the Minister in exercise of his new emergency powers. A copy of the Notice can be found at **Appendix 1**. This Notice provides variations to the Local Government Act to enable Council Members to participate in a Council meeting by electronic means, something which is not permitted under the ordinary application of the *Local Government Act 1999* or the *Local Government (Procedures at Meetings) Regulations 2013*.

These changes provide Council with the ability to ensure the appropriate social distancing protocols for Council Members, staff and the community can be adhered to due to the current COVID-19 pandemic.

As a result of the Notice Council is required to implement additional provisions into the following documents (via suspension of the current documents and the adoption of revised documents):

- *Code of Procedure for Council Meeting Procedures (Appendix 3)*
- *Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents (Appendix 4)*
- *Informal Council and Council Committee Gatherings and Discussions Policy (Appendix 5)*

The Notice has been drafted as to allow the additional provisions to expire once the notice is revoked. To make those Notice No 1 provisions clear, these provisions are identified under the relevant sections utilising Track Changes. Once the Notice is revoked, Council will be able to revert back to the original Codes of Practices and the Informal Gatherings Policy.

The key changes are detailed below:

Change	Detail
Electronic participation	<ul style="list-style-type: none">• Some or all Council Members can participate in a Council meeting by electronic means• Where councils use a system that provides both audio and visual connection, then both must be used (as opposed to just audio)• Each member must be seen and heard by all members• The minutes of any meeting must indicate by what means each Council Member attended the meeting (e.g. in person, by telephone, or by audio-visual link).• Council Members participating by electronic means can be taken to be present for purposes of a quorum. <p>AHC's approach will be to have both audio and visual connection and for all members to participate by electronic means.</p>

Change	Detail
<p>Access to meeting documents</p>	<ul style="list-style-type: none"> • Meeting notices, agenda and reports, other accompanying documents, and minutes are not required to be displayed at the principal office but must still be published on a website determined by the CEO. • The Presiding Member may initial, and sign confirmed minutes in hard copy or electronically. <p>AHC’s approach is for all meeting-related documentation to be on the website.</p>
<p>Public access</p>	<ul style="list-style-type: none"> • Council meetings may be live streamed in order to satisfy the requirement that a meeting be conducted in a place open to the public. • If live streaming isn't available, then a recording may be placed on the council’s website instead, as soon as practicable after the meeting. • A council must disconnect any live stream or recording of a meeting for the period that the meeting is closed to the public pursuant to an order under section 90(2) (confidential items). <p>AHC’s approach is to live stream meetings with the link on the website (see Enabling Technology section of this report)</p>
<p>Code of Practice for access to meetings and documents</p>	<ul style="list-style-type: none"> • The first item of business at a meeting must be the consideration of the alteration or substitution of the Council’s Code of Practice for access to meetings and documents under Section 92 of the LG Act, in order to allow future meetings to occur by electronic means. • The Notice allows such alteration or substitution to occur without any requirement for public consultation and by majority vote. • The Notice permits Council Members to meet by electronic means to alter or substitute the Code of Practice even if the existing Code of Practice prevents or inhibits anything permitted by the Notice (that will then be subject to change at that meeting). <p>This is the purpose of the Special Council meeting.</p>

Change	Detail
Meeting procedures- voting	<ul style="list-style-type: none"> The Notice varies several voting procedures in the regulations that refer to, for example, being seated, standing in their places, or showing hands Council is able to vary some of these provisions and the Administration has drafted voting provisions to allow a member raising their hand for the meeting to see or via an electronic option <p>AHC’s approach via the revised Code of Practice is for a show of hands unless the Member’s visual image is not functioning, in which case it is a verbal indication.</p>
Meeting procedures - conflict of interest	<ul style="list-style-type: none"> When dealing with a material conflict of interest, a council member will be considered to leave the meeting physically or by disconnecting electronic means such that the member cannot see or hear any discussion or voting at the meeting about the matter and also not see or hear the discussion or voting via any live stream or recording of the meeting (Appendix 2). Disconnecting electronic means includes ending the video conferencing connection, or logging/signing out of a virtual meeting room or space, or disconnecting from other electronic means, so that the discussion and voting at the meeting cannot be seen or heard. <p>AHC’s approach is for the host to place the Member in a virtual waiting room utilising the functionality of Zoom.</p>
Meeting procedures – deputations and presentations and public forum	<ul style="list-style-type: none"> Deputations and presentations will be able to occur subject to the speaker having access to the Zoom software <p>Public forums, which are a discretionary procedure adopted by Council, will be too difficult to manage via electronic participation and this option has been deleted from the revised Code of Practice. Members will, as always, be able to raise matters on behalf of constituents</p>

Enabling Technology

The Administration has assessed that the appropriate system to facilitate electronic participation is Zoom (Meetings and Webinars). Zoom is a widely used video conferencing platform and has been utilised in the local government sector (and other sectors) in both webinar and meeting format for a period of time.

The software provides the following features to assist in the delivery of electronic meetings:

- the ability to temporarily remove a member from hearing or seeing the debate if they cite a conflict and need to exit the meeting;
- the ability to allow electronic deputations and presentations to be heard;
- the ability to excuse the public to hear a confidential item; and
- there is additional functionality in relation to voting and chat however these will not be utilised initially.

The software does have some security issues however these are considered to be negligible given that the vast majority of Council and Committee meetings are open to the public and there are a number of additional security protocols being implemented by the software vendor.

As with will all web-based video conferencing options, the quality of the internet connection for the individual user is a key factor in the utilisation and engagement with the product.

Zoom was most recently used for the CEO Performance Review Panel meeting on 9 April 2020 and performed relatively well. Again, noting that while members can participate in committee meetings by electronic means, there is still a requirement for the meeting to be held in a place open to the public (i.e. not live streamed).

The live streaming aspect of the electronic participation will be via Council's YouTube account with a link for the public on Council's website. If, for any reason, this option proves problematic, there is an alternate option of streaming directly from Zoom Webinars, again with the link details provided on the Council website.

Changes to the Codes

Under the Notice Council is able to amend the *Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents* without the requirement to undertake public consultation (as is normally required). The amendments can be adopted by a majority vote of Council.

Further to this, amendments to the *Code of Practice for Council Meeting Procedures* that come from the Notice can also be endorsed by the majority vote of Council, however some of the discretionary provisions can be further varied if the required 2/3rds of the Members entitled to vote, vote in the affirmative.

4. OPTIONS

Council has the following options:

- I. To resolve to suspend the current codes and policy listed and to adopt revised documents consistent with Notice No 1 and to resolve that future meetings are conducted via Zoom (Recommended)
- II. To determine revisions to the discretionary elements of the codes or policy prior to adoption (Not Recommended)

5. APPENDICES

- (1) *Electronic Participation in Council Meetings Notice (No 1) 2020*
- (2) *Revised s74 – Dealing with material conflicts of interest of the Local Government Act 1999*
- (3) *Draft Code of Procedure for Council Meeting Procedures – April 2020*
- (4) *Draft Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents – April 2020*
- (5) *Draft Informal Council and Council Committee Gatherings and Discussions Policy – April 2020*

Appendix 1

*Electronic Participation in Council Meetings Notice
(No 1) 2020*

SUPPLEMENTARY GAZETTE



**THE SOUTH AUSTRALIAN
GOVERNMENT GAZETTE**

PUBLISHED BY AUTHORITY

ADELAIDE, TUESDAY, 31 MARCH 2020

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STATE GOVERNMENT INSTRUMENTS
Local Government Act 1999 620

All instruments appearing in this gazette are to be considered official, and obeyed as such

STATE GOVERNMENT INSTRUMENTS

NOTICE PURSUANT TO SECTION 302B OF THE *LOCAL GOVERNMENT ACT 1999*

PUBLIC HEALTH EMERGENCY: ELECTRONIC PARTICIPATION IN COUNCIL MEETINGS (NO 1)

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On the basis that a relevant declaration has been made in relation to a public health emergency and being satisfied that variation or suspension of the provisions specified in Schedule 1 to this notice is reasonably necessary as a result of the emergency, I, **Stephan Karl Knoll, Minister for Transport, Infrastructure and Local Government**, in the State of South Australia, in accordance with section 302B of the *Local Government Act 1999* (“the Act”) hereby vary or suspend the operation of the specified provisions of the Act as set out in Schedule 1 to this notice, subject to any conditions specified in this notice including in accordance with any alternative requirements, arrangements or procedures as provided for in this notice.

1. Citation

This notice may be cited as the *Electronic Participation in Council Meetings Notice (No 1) 2020*.

2. Definitions

In this notice—

Act means the *Local Government Act 1999*;

electronic means includes a telephone, computer or other electronic device used for communication;

regulations means the *Local Government (Procedures at Meetings) Regulations 2013*.

3. Application

This notice applies to all councils constituted under the Act including, for the avoidance of doubt, the Adelaide City Council.

Schedule 1—Provisions of the Act and regulations varied or suspended (section 302B(1) of Act)

Provision of Act or regulations	Variation or suspension
<i>Local Government Act 1999</i>	
Section 74	Delete subsection (1)(b) and substitute: <ul style="list-style-type: none"> (b) leave the meeting (physically or by disconnecting electronic means) such that the member cannot view or hear any discussion or voting at the meeting about the matter; and (c) not view or listen to the discussion or voting at the meeting about the matter via any live stream or recording of the meeting.
Section 74(2)	After “or being in the chamber where the meeting is being conducted,” insert: or being connected to the meeting by electronic means,
Section 74(3)	After “or to be in the chamber where the meeting is being conducted,” insert: or to be connected to the meeting using electronic means,
Section 74(5)	Delete subsection (5)(c) and substitute: if the member took part in the meeting, or was in the chamber during the meeting, or was connected to the meeting by electronic means, under an approval under subsection (3), the fact that the member took part in the meeting, or was in the chamber during the meeting, or was connected to the meeting by electronic means (as the case requires).
Section 74	After subsection (6) insert: (7) In this section— <i>connected to</i> means able to hear and/or see the meeting, including via a live stream or recording of the meeting; <i>disconnecting electronic means</i> includes— <ul style="list-style-type: none"> (a) ending a telephone connection such that the discussion and voting at the meeting cannot be heard; (b) ending a video conferencing connection such that the discussion and voting at the meeting cannot be seen or heard; (c) logging out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard; (d) signing out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard; or (e) disconnecting any other electronic means such that the discussion and voting at the meeting cannot be seen or heard; <i>live stream</i> means the transmission of audio and/or video from a meeting at the time that the meeting is occurring;
Section 81	After subsection (3) insert: (3a) If a place has been appointed for the holding of an ordinary meeting but the council is unable to meet at the designated place as a result of the public health emergency, the chief executive officer may appoint a different place at which the ordinary meeting is to be held.

Provision of Act or regulations	Variation or suspension
Section 81	After subsection (7) insert: (8) In this section— <i>place</i> includes an electronic location (such as a virtual meeting room).
Section 83	After subsection (3) insert: (3a) For the purposes of subsection (3)(c), the chief executive officer may sign the notice in hardcopy or electronically.
Section 83	After subsection (9) insert: (10) In subsection (3)— <i>place</i> includes an electronic location (such as a virtual meeting room).
Section 84(1a)(a)	Suspend subsection 84(1a)(a).
Section 84(3)	Delete subsection (3) and substitute: A person is entitled, on payment of a fee fixed by the council, to obtain a copy of a notice and agenda published under subsection (1a)(b) on request.
Section 84(4)	Delete subsection (4) and substitute: The notice and agenda must continue to be published on the website under subsection (1a) until the completion of the relevant meeting.
Section 84(5)	Delete subsection (5) and substitute: The chief executive officer (or a person nominated in writing by the chief executive officer) must also ensure that any document or report supplied to members of the council for consideration at a meeting of the council is available for inspection by members of the public— (a) in the case of a document or report supplied to members of the council before the meeting—on a website determined by the chief executive officer as soon as practicable after the time when the document or report is supplied to members of the council; or (b) in the case of a document or report supplied to members of the council at the meeting—on a website determined by the chief executive officer as soon as practicable after the time when the document or report is supplied to members of the council.
Section 84(7)	After subsection (6) insert: (7) In this section— <i>place</i> includes an electronic location (such as a virtual meeting room).
Section 85	After subsection (1) insert: (2) For the purposes of this section— (a) a member of the council participating in a council meeting by electronic means is taken to be present at the meeting provided that the member— (i) can hear all other members present at the meeting;

Provision of Act or regulations	Variation or suspension
	<p>(ii) can be heard by all other members present at the meeting; and</p> <p>(iii) can be heard by the person recording the minutes of the meeting.</p> <p>(b) A quorum is taken to be present even if 1 or more council members constituting the quorum is present by electronic means.</p>
Section 86	<p>After subsection (9) insert:</p> <p>(10) For the purposes of this section—</p> <p>(a) a member of the council participating in a council meeting is taken to be present at the meeting provided that the member—</p> <p>(i) can hear all other members present at the meeting;</p> <p>(ii) can be heard by all other members present at the meeting; and</p> <p>(iii) can be heard by the person recording the minutes of the meeting.</p>
Section 86	<p>After subsection (8) insert:</p> <p>(8a) For the purposes of subsection (8)(b), council members may meet by electronic means to alter a procedure determined by the council to be observed at a meeting of a council, even if the existing procedure prevents or inhibits the council members from meeting by electronic means.</p>
Section 90	<p>After subsection (1) insert:</p> <p>(1a) A council meeting will be taken to be conducted in a place open to the public for the purposes of this section even if 1 or more council members participate in the meeting by electronic means provided that—</p> <p>(a) the chief executive officer (or a person nominated in writing by the chief executive officer) makes available to the public a live stream of the meeting on a website determined by the chief executive officer and ensures that members of the public can hear the discussion between all council members present at the meeting via the live stream; or</p> <p>(b) if the chief executive officer (or a person nominated in writing by the chief executive officer) has taken reasonable steps to make available a live stream of the meeting but is unable to make available a live stream of the meeting, the chief executive officer (or a person nominated in writing by the chief executive officer) makes available to the public a recording of the meeting as soon as practicable after the meeting on a website determined by the chief executive officer and ensures that members of the public can hear the discussion between all council members present at the meeting via the recording.</p> <p>(1b) If the chief executive officer (or a person nominated in writing by the chief executive officer) has taken reasonable steps to comply with subsection (1) but is unable to comply—</p> <p>(a) the chief executive officer (or a person nominated in writing by the chief executive officer) must publish on a website determined by the chief executive officer the steps taken to comply with subsection (1); and</p> <p>(b) subsection (1) is suspended.</p>
Section 90	<p>After subsection (2) insert:</p>

Provision of Act or regulations	Variation or suspension
	(2a) A council or council committee must disconnect any live stream or recording of a meeting for the period that the meeting is closed to the public pursuant to an order made under subsection (2).
Section 90(5)	Delete subsection (5) and substitute: A person who, knowing that an order is in force under subsection (2), enters or remains in a room in which a meeting of the council or council committee is being held, or connects to a meeting of the council or a council committee by electronic means, or fails to disconnect from a meeting of the council or council committee, is guilty of an offence and liable to a penalty not exceeding \$500 and if such a person fails to leave the room on request it is lawful for an employee of the council or a member of the police force to use reasonable force to remove him or her from the room.
Section 90(9)	After “In this section—” insert: <i>connect</i> means able to hear and/or see the meeting, including via a live stream or recording of the meeting; <i>disconnect</i> means remove the connection so as to be unable to hear and see the meeting; <i>live stream</i> means the transmission of audio and/or video from a meeting at the time that the meeting is occurring;
Section 91(4)	Delete subsection (4) and substitute: A copy of the minutes of a meeting of the council must be placed on public display on a website determined by the chief executive officer within five days after the meeting and kept on display for a period of one month.
Section 92	Delete subsection (1) and substitute: (1) Subject to subsection (1a), a council must prepare and adopt a code of practice relating to the principles, policies, procedures and practices that the council will apply for the purposes of the operation of Parts 3 and 4. (1a) A council is not required to adopt any provision in a code of practice that would prevent or inhibit members from participating in council meetings or council committee meetings by electronic means.
Section 92	After subsection (3) insert: (3a) For the purposes of subsection (3), council members may meet by electronic means in a place taken to be open to the public pursuant to section 90(1a) to alter the code of practice of the council, or substitute a new code of practice of the council, even if the existing code of practice prevents or inhibits public access to the meeting by electronic means.
Section 92 (5)	Suspend section 92(5).
<i>Local Government (Procedures at Meetings) Regulations 2013</i>	
Reg 3(4)	Delete subregulation (4) and substitute:

Provision of Act or regulations	Variation or suspension
	<p>For the purposes of these regulations, a vote on whether <i>leave of the meeting</i> is granted may be conducted by—</p> <p>(a) a show of hands; or</p> <p>(b) where a member is participating in a meeting by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative,</p> <p>(but nothing in this subregulation prevents a division from being called in relation to the vote).</p>
Reg 3	<p>After subregulation (4) insert:</p> <p>(5) For the purposes of subregulation (1), a reference to “appear personally” includes to appear by electronic means.</p> <p>(6) For the purposes of these regulations, a member participating in a meeting by electronic means is taken to be present at the meeting provided that the member—</p> <p>(a) can hear all other members present at the meeting;</p> <p>(b) can be heard by all other members present at the meeting; and</p> <p>(c) can be heard by the person recording the minutes of the meeting.</p>
Reg 6	<p>After subregulation (3) insert:</p> <p>(3a) Without limiting subregulation (3), a council may at any time, by resolution supported by the prescribed number of members of the council entitled to vote on the resolution, alter a code of practice to facilitate participation by council members in council meetings by electronic means.</p> <p>(3b) For the purposes of subregulation (3a), the <i>prescribed number</i> of members of a council is a number ascertained by dividing the total number of members of the council for the time being in office by 2, ignoring any fraction resulting from the division, and adding one.</p>
Reg 6(7)	<p>Delete subregulation (7) and substitute:</p> <p>Regulation 12(4) does not apply to a motion under subregulation (3) or subregulation (3a).</p>
Reg 7(5)(b)	<p>Delete subregulation (5)(b) and substitute:</p> <p>give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be published on a website determined by the chief executive officer.</p>
Reg 8	<p>After subregulation (3) insert:</p> <p>(3a) For the purposes of subregulation (3), the presiding member may initial or sign the minutes in hardcopy or electronically.</p>
Reg 8(4)	<p>After subregulation (4)(b)(ii) insert:</p> <p>(iii) the method of attendance by the person;</p> <p>and</p>

Provision of Act or regulations	Variation or suspension
	<p style="text-align: center;">Example—</p> <p style="text-align: center;">The following are examples of methods of attendance:</p> <ul style="list-style-type: none"> (a) physical attendance; (b) by an audio-visual link; (c) by an audio link; (d) by telephone.
Reg 10(1)(d)	<p>Delete subregulation (1)(d) and substitute:</p> <p style="text-align: center;">be addressed to the council and delivered to the council by means determined by the chief executive officer.</p>
Reg 11(1)	<p>Delete subregulation (1) and substitute:</p> <p style="text-align: center;">A person or persons wishing to appear as a deputation at a meeting must deliver (to the council by means determined by the chief executive officer) a written request to the council.</p>
Reg 16(3)	<p>Delete subregulation (4) and insert:</p> <p>(4) Subregulation (3)—</p> <ul style="list-style-type: none"> (a) may be varied at the discretion of the council pursuant to regulation 6; (b) does not apply in relation to a member participating in a council committee meeting by telephone or electronic means approved in accordance with procedures determined by the council or council committee for the purposes of section 89 of the Act; and (c) is varied in relation to a member participating in a council meeting by electronic means such that the reference to “not in his or her seat” is taken to include a disconnection of the electronic means. <p>(5) In this regulation—</p> <p><i>disconnection of the electronic means</i> includes—</p> <ul style="list-style-type: none"> (a) ending a telephone connection such that the discussion and voting at the meeting cannot be heard; (b) ending a video conferencing connection such that the discussion and voting at the meeting cannot be seen or heard; (c) logging out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard; (d) signing out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard; or (e) disconnecting any other electronic means such that the discussion and voting at the meeting cannot be seen or heard.
Reg 17(3)	<p>Delete subregulation (3) and substitute:</p> <p>(3) The division will be taken as follows:</p> <ul style="list-style-type: none"> (a) subject to subregulation (3a), the members voting in the affirmative will, until the vote is recorded, stand in their places;

Provision of Act or regulations	Variation or suspension
	<p>(b) subject to subregulation (3a), the members voting in the negative will, until the vote is recorded, sit in their seats;</p> <p>(c) the presiding member will count the number of votes and then declare the outcome.</p> <p>(3a) Where a member is participating in a meeting by electronic means which has audio only, the member will provide a verbal indication of voting in the affirmative or voting in the negative.</p>

CONDITIONS

The variation of the operation of sections 85 and 86 of the Act is subject to the following condition:

1. Where—
 - (a) a council member is to participate in a council meeting by electronic means; and
 - (b) the electronic means has the functionality to allow the council member to participate in the meeting by being heard but not seen or by being both seen and heard; and
 - (c) the electronic means of the council has the functionality to allow the council member to be heard but not seen or to be both seen and heard, the member must participate by being both seen and heard.

This notice operates from the date of publication in the South Australian Government Gazette.

This notice has effect for the period specified in section 302B(2)(d)(ii) of the Act.

HON STEPHAN KNOLL MP
MINISTER FOR TRANSPORT, INFRASTRUCTURE AND LOCAL GOVERNMENT

Dated this day of 30 March 2020

All instruments appearing in this gazette are to be considered official, and obeyed as such

Appendix 2

*Revised s74 – Dealing with material conflicts of interest
of the Local Government Act 1999*

- (b) a body corporate comprised of, or including or having a governing body comprised of or including, a Minister or Ministers of the Crown or a person or persons appointed by the Governor or a Minister or other agency or instrumentality of the Crown.

74—Dealing with material conflicts of interest

- (1) If a member of a council has a material conflict of interest in a matter to be discussed at a meeting of the council, the member must—
 - (a) inform the meeting of the member's material conflict of interest in the matter; and
 - ~~(b) leave the meeting room (including any area set aside for the public) such that the member cannot view or hear any discussion or voting at the meeting, and stay out of the meeting room while the matter is being discussed and voted on.~~
 - (b) leave the meeting (physically or by disconnecting electronic means) such that the member cannot view or hear any discussion or voting at the meeting about the matter; and
 - ~~(b)-(c) not view or listen to the discussion or voting at the meeting about the matter via any live stream or recording of the meeting.~~

Maximum penalty:

- (a) if the member votes on the matter with an intention to gain a benefit, or avoid a loss, for the member or another person—\$15 000 or 4 years imprisonment; or
 - (b) in any other case—\$5 000.
- (2) However, a member of the council does not contravene subsection (1) by taking part in the meeting, or being in the chamber where the meeting is being conducted, or being connected to the meeting using electronic means if the member—
 - (a) has been granted an approval under subsection (3); and
 - (b) is complying with the conditions of the approval.
 - (3) The Minister may grant an approval in writing to a member of the council to take part in the meeting, or to be in the chamber or to be connected to the meeting using electronic means where the meeting is being conducted, if—
 - (a) because of the number of members subject to the obligation under this section, conduct of the meeting would be obstructed if the approval were not given; or
 - (b) it appears to the Minister to be in the interests of the council's community and area.
 - (4) The Minister may grant an approval under subsection (3) subject to any conditions determined by the Minister.
 - (5) If a member of a council discloses a material conflict of interest in a matter to be discussed at a meeting of the council, the following details must be recorded in the minutes of the meeting and on a website determined by the chief executive officer:
 - (a) the member's name;

- (b) the nature of the interest, as described by the member;
 - (c) ~~if the member took part in the meeting, or was in the chamber during the meeting, under an approval under subsection (3), the fact that the member took part in the meeting, or was in the chamber during the meeting (as the case requires).~~
 - (c) if the member took part in the meeting, or was in the chamber during the meeting, or was connected to the meeting by electronic means, under an approval under subsection (3), the fact that the member took part in the meeting, or was in the chamber during the meeting, or was connected to the meeting by electronic means (as the case requires).
- (6) This section does not apply to a matter of ordinary business of the council of a kind prescribed by regulation for the purposes of this section.

(7) In this section—

connected to means able to hear and/or see the meeting, including via a live stream or recording of the meeting;

disconnecting electronic means includes—

- (a) ending a telephone connection such that the discussion and voting at the meeting cannot be heard;
- (b) ending a video conferencing connection such that the discussion and voting at the meeting cannot be seen or heard;
- (c) logging out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard;
- (d) signing out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard; or
- (e) disconnecting any other electronic means such that the discussion and voting at the meeting cannot be seen or heard;

live stream means the transmission of audio and/or video from a meeting at the time that the meeting is occurring;

Subdivision 2—Actual and perceived conflicts of interest

75—Actual and perceived conflicts of interest

- (1) In this Subdivision—
- actual conflict of interest*—see section 75A(1)(a);
- conflict of interest*—see subsections (2) and (3);
- perceived conflict of interest*—see section 75A(1)(b).
- (2) For the purposes of this Subdivision but subject to this section, a *conflict of interest* is a conflict between—
- (a) a member of a council’s interests (whether direct or indirect personal or pecuniary); and
 - (b) the public interest,
- that might lead to a decision that is contrary to the public interest.

Appendix 3

Draft Code of Procedure for Council Meeting Procedures
– April 2020

COUNCIL POLICY

 <p>Adelaide Hills COUNCIL</p>	<h2>CODE OF PRACTICE FOR COUNCIL MEETING PROCEDURES</h2>
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Policy Number:	GOV-14
Responsible Department(s):	Governance & Performance
Relevant Delegations:	As per the delegations schedule and as included in this Code
Other Relevant Policies:	<p><i>Council Member Conduct Policy</i> <i>Code of Practice for Access to Council and Council Committee and Designated Informal Gatherings Meetings & Documents</i> <i>Petitions Policy</i> <i>Informal Council and Council Committee Gatherings & Discussions Policy</i> <i>One Team – Communication Protocols for Council Members and the Administration</i></p>
Relevant Procedure(s):	None
Relevant Legislation:	<p><i>Local Government Act 1999</i> <i>Local Government (Procedures at Meetings) Regulations 2013</i> <u><i>Electronic Participation in Council Meetings Notice (No 1) 2020</i></u></p>
Policies and Procedures Superseded by this policy on its Adoption:	Code of Practice for Council Meeting Procedures, 22 August 2017, Item 14.9, 191/17
Adoption Authority:	Council
Date of Adoption:	28 January 2020
Effective From:	10 February 2020
Minute Reference for Adoption:	25 January 2020, Item 12.7, 17/20
Next Review:	No later than January 2021 or as required by legislation or changed circumstances

Version Control

Version No.	Date of Effect	Description of Change(s)	Approval
1.1	25/2/2020	Amendments to clause 3.10 to provide consistency with changes to Council <i>Petitions Policy</i>	Council - Res 47/20
<u>1.2a</u>	<u>To be updated administratively</u>	<u>Amendments to provide consistency with <i>Electronic Participation in Council Meetings Notice (No 1) 2020</i></u>	<u>To be updated administratively</u>

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To be updated administratively upon finalisation of document

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CODE OF PRACTICE FOR COUNCIL MEETING PROCEDURES

1. INTRODUCTION

Adelaide Hills Council (AHC) is committed to the principle of honest, open and transparent governance and encourages community participation in the business of Council. The rules and procedures for all meetings of Council and its Committees are outlined in the:

- *Local Government Act 1999* (the Act)
- *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations)

These Regulations provide that a council may develop and adopt a Code of Practice for its own meetings of Council and Committees that add to, or vary certain aspects of, these provisions. Committees, in this regard, refer to committees established under section 41 of the Act.

The purpose of this Code is to establish a consistent approach and provide clear expectations to Council Members, staff, residents, ratepayers and guests for the order of business, procedures and etiquette of AHC Council meetings.

This Code supplements the legislation, with any procedures that are required by legislation inserted into the document with reference to the relevant regulation (provided in boxes, with wording in italics). This enables the Code to be read in conjunction with AHC's meeting procedure requirements. Please note that this only applies to procedures at the meeting, rather than those aspects that relate to frequency, timing, and notice of meetings, where reference has only been made to the relevant section within the Act.

1.1. Application of the Code of Practice

This Code applies to all ordinary and special meetings of Council.

The section 41 committees of Council will be guided by the Act and Regulations as applicable to those committees and any provisions set out in the committee terms of reference.

References to the Mayor also include the acting Presiding Member in the Mayor's absence.

1.2. Public Health Emergency: Electronic Participation in Council Meetings

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the *Local Government Act 1999* (*Notice No 1*) varying or suspending the operation of the specified provisions of the *Local Government Act 1999* as set out in Schedule 1 to Notice No 1. Notice No 1 commenced operation on 31 March 2020.

For the period Notice No 1 has effect (as provided for in Notice No 1), this Code of Practice is altered as set out below and those alterations have effect notwithstanding any other provision in this Code of Practice to the contrary.

For the avoidance of doubt, save for the alterations to the Code of Practice as set out below, this Code of Practice otherwise applies to all meetings of the Council.

1.2.1.3. Guiding Principles

Regulation 4 of the Regulations prescribes guiding principles that should be applied with respect to the procedures to be observed at a meeting of a council or council committee.

In determining a matter of meeting procedure, the Mayor should consider the extent to which the proposed action upholds the following principles:

Legislation – Regulation 4

The following principles (the Guiding Principles) should be applied with respect to the procedures to be observed at a meeting of a Council or Council Committee.

- a) *procedures should be fair and contribute to open, transparent and informed decision making.*
- b) *procedures should encourage appropriate community participation in the affairs of the Council.*
- c) *procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting.*
- d) *procedures should be sufficiently certain to give the community and decision makers confidence in the deliberations undertaken at the meeting.*

These Guiding Principles underpin the details documented in this Code of Practice.

1.4. Suspension of other Inconsistent Provisions

To the extent that any other discretionary provision of this Code of Practice or specific procedure adopted by the Council in this Code of Practice could be read as being inconsistent or incompatible with the ability of a member of the Council to participate in a meeting of the Council by electronic means, the provision is suspended in respect of the member while they are participating in the meeting by electronic means.

In circumstances where a provision is suspended under this paragraph, the presiding member may give directions to a member of the Council in respect of an alternative method of compliance with the suspended provision.

Any member who disagrees with a direction of the presiding member under this paragraph may move a motion that the direction not be adhered to. Such a motion must be moved immediately following the issuance of the direction. In the event such a motion is successful, the meeting may give directions to a member, by resolution.

1.5. Definitions associated with Notice No 1

Act means the Local Government Act 1999.

electronic means includes a telephone, computer or other electronic device used for communication.

regulations means the *Local Government (Procedures at Meetings) Regulations 2013*.

disconnection of the electronic includes:

- (a) ending a telephone connection such that the discussion and voting at the meeting cannot be heard;
- (b) ending a video conferencing connection such that the discussion and voting at the meeting cannot be seen or heard;
- (c) logging out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard;
- (d) signing out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard; or
- (e) disconnecting any other electronic means such that the discussion and voting at the meeting cannot be seen or heard.

2. OPERATING PROCEDURES – BEFORE THE MEETING

2.1. Calling Meetings

Ordinary Meetings

Section 81 of the Act prescribes the legislative requirements for the frequency and timing of ordinary council meetings.

The schedules for Ordinary Council Meetings are resolved in advance and are maintained on the Council website.

Special Meetings

Section 82 of the Act prescribes the legislative requirements for the calling of special meetings of council.

Details of special meetings of Council will be placed on the Council website as soon as possible after the decision to call the meeting.

2.2. Notice and Agendas for Meetings – Ordinary and Special Meetings

Sections 83 and 84 of the Act prescribe the legislative requirements for providing Council Members and the public with notice for Council meetings.

At least three (3) clear days¹ before the Council meeting (unless it is a special meeting²) the Chief Executive Officer (CEO) must give written notice of the meeting to all Council Members setting out the date, time and place of the meeting.

The notice must contain or be accompanied by the agenda³ and, as far as practicable, the documents and reports that are to be considered at the meeting. Council's practice, whenever possible, is to provide the notice four (4) clear days before the meeting (i.e. by 5.00pm Thursday for a Tuesday evening meeting).

Each Council Member may indicate their preference for delivery of the notice of meeting, agenda and reports for all Council meetings. Any changes to the delivery arrangements must be requested in writing.

For members of the public, a copy of the notice of meeting, agenda and reports (with the exception of confidential items) will be displayed for viewing ~~at Council's Service and Community Centres and in the mobile library,~~ on Council's website www.ahc.sa.gov.au as soon as practicable after the time when the document or report is supplied to members of the Council⁴, and will be available at the meeting

¹ 'clear days' means that the time between the giving of the notice and the day of the meeting, but excluding both the day on which the notice was given and the day of the meeting, (e.g. notice is given on a Thursday for a following Monday meeting, the clear days are Friday, Saturday and Sunday). If a notice is given after 5 p.m. on a day, the notice will be taken to have been given on the next day

² Special meetings under s83(2) of the *Local Government Act 1999* require at least four (4) hours' notice.

³ 'agenda' under s4(1) of the *Local Government Act 1999* means a list of items of business to be considered in a meeting. For clarity, reports and documents that accompany those business items are not considered to be the 'agenda'.

⁴ For more information on public access to the Council agenda, please see the *Code of Practice for Access to Council and Council Committee and Designated Informal Gatherings Meetings & Documents*

Hard copies of the agenda and reports or parts thereof are available at a fee detailed in Council's *Fees & Charges Register*.

For Special Meetings, the CEO must ensure that each Member of the Council is given at least four (4) hours' notice of a special meeting of the Council.

Notices of special meetings will be distributed by email to the Council-provided email address for each Member, and will be displayed on Council's website for viewing by members of the public.

2.3. Public Access to Meetings

~~Council meetings will be conducted in a place open to the public unless the Council makes an order to exclude the public in order to discuss a matter of confidence, in accordance with the requirements of section 90 of the Act.~~

Council has adopted a *Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents* which outlines ~~a commitment by AHC to provide public access to meetings and policies, procedures and practices on why and how the Council may use the provisions in the Act to restrict public access~~the arrangements for public access to Council meetings.

2.4. Questions for Clarification Prior to the Meetings

To facilitate efficient and effective meetings, Council Members are encouraged to contact the CEO or nominated delegate prior to Council meetings to clarify matters appearing on the agenda. For Administration Reports, the nominated delegate is the Council Officer whose name is listed as the Responsible Officer.

3. OPERATING PROCEDURES – THE ORDER OF BUSINESS

3.1. Commencement of Meetings and Quorums

Legislation – Regulation 7

- (1) *A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.*
- (2) *If the number of apologies received by the chief executive officer indicates that a quorum will not be present at a meeting, the chief executive officer may adjourn the meeting to a specified day and time.*
- (3) *If at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present, the presiding member or, in the absence of a presiding member, the chief executive officer, will adjourn the meeting to a specified day and time.*
- (4) *If a meeting is adjourned for want of a quorum, the chief executive officer will record in the minute book the reason for the adjournment, the names of any members present, and the date and time to which the meeting is adjourned.*
- (5) *If a meeting is adjourned to another day, the chief executive officer must-*
 - (a) *give notice of the adjourned meeting to each member setting out the date, time and place of the meeting; and*
 - (b) *give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be published on a website determined by the chief executive officer placed on display at the principal office of the council.*

A quorum for Council is determined under s85 of the Act by 'dividing the total number of members of the council for the time being in office by 2, ignoring any fraction resulting from the division, and adding one'.

In the normal course of events, AHC's quorum is seven (7) Council Members.

In accordance with Notice No 1, s85 of the Act has been amended in that a member of the Council participating in a Council meeting by electronic means is taken to be present at the meeting provided that the member:

- (a) can hear all other members present at the meeting;
- (b) can be heard by all other members present at the meeting; and
- (c) can be heard by the person recording the minutes of the meeting.

Further it is condition under Notice No 1, that where:

- (a) a Council member is to participate in a Council meeting by electronic means; and
- (b) the electronic means has the functionality to allow the Council member to participate in the meeting by being heard but not seen or by being both seen and heard; and
- (c) the electronic means of the Council has the functionality to allow the council member to be heard but not seen or to be both seen and heard,

the member must participate by being both seen and heard.

A quorum is taken to be present even if one or more Council members constituting the quorum is present by electronic means.

3.2. Order of Business

The order of business for Council meetings will generally be in accordance with the attached agenda template – refer **Appendix A**. However the Mayor at his/her own initiative or at the request of a Member of Council may bring forward items, with the leave of the meeting, for debate and resolution where:

- a large contingent of interested parties is present in the gallery
- contractors or consultants are present to make presentations; or
- it may otherwise be considered expedient or appropriate.

3.3. Length of Council Meetings

Council meetings will commence at the time set down in the Notice of Meeting.

Council has resolved that Council meetings will conclude at or before 10.00pm, unless the meeting formally resolves on each specific occasion to continue beyond that time.

Where a meeting is likely to continue beyond 10.00pm a motion is to be put to the meeting whether to continue or adjourn to another date and time. Extensions of the meeting will normally be in 30 minute blocks.

During the course of a Council meeting, a motion may be put to adjourn the meeting for a specified period (i.e. for 10 minutes).

3.4. Opening Statement

After calling a Council meeting to order, the meeting is opened with the following statement:

“Council acknowledges that we meet on the traditional lands of the Peramangk and Kurna people and we recognise their connection with the land.

We understand that we do not inherit the land from our ancestors but borrow it from our children and in this context the decisions we make should be guided by the principle that nothing we do should decrease our children’s ability to live on this land.”

3.5. Attendees, Apologies and Absences

If a Member expects to be late or unable to attend a meeting the Governance & Performance Department (governanceandperformance@ahc.sa.gov.au) is to be advised prior to the commencement of the meeting or as soon as possible.

If a Member intends to seek a leave of absence, the request must be made in writing to the Governance & Performance Department, specifying the period of leave that is being requested, prior to the commencement of the meeting. A leave of absence will only be granted by a resolution of the Council. A leave of absence should not be retrospective.

All apologies and leaves of absence will be listed in the Minutes for each Council meeting that it relates to.

If no apology has been received and there is no leave of absence and the Member is not present, they will be recorded in the Minutes as being absent.

If a Member arrives after the meeting commences, the time of arrival will be included in the Minutes.

Council Officers who address the Council meeting will be recorded in the Minutes.

The number of members of the public or representation of any other organisations will not be recorded in the minutes, unless presenting on a specific item in the agenda.

3.6. Confirmation of Minutes

Legislation – Regulation 8

- (1) The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting*
- (2) No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.*
- (3) On the confirmation of the minutes, the presiding member will-*
 - (a) initial each page of the minutes, which pages are to be consecutively numbered; and*
 - (b) place his or her signature and the date of confirmation at the foot of the last page of the minutes.*

The Minutes submitted at the meeting will be those of the previous meeting less any information that is subject to an order under section 90 of the Act.

[In accordance with Notice No 1, on confirmation of the minutes the presiding member may initial or sign the minutes in hardcopy or electronically.](#)

3.7. Declaration of Interest

The provisions in relation to a Council Member's interests are set out in sections 73, 74, 75 and 75A of the Act. [Section 74 – Dealing with material conflicts of interest has been amended to recognise electronic participation in Council meetings by a member of Council.](#)

It is a Council Member's responsibility to ensure they are aware of, and understand, the provisions of sections 73, 74, 75 and 75A of the Act in relation to declarations of interest.

A Council Member who has an interest in a matter, as defined under sections 73 and 75 of the Act, must disclose the interest to the Council in accordance with the provisions of sections 74 and 75A of the Act. Disclosures will be recorded in the Minutes in accordance with the relevant provisions of the Act and Regulations.

Council Members may seek advice about a possible interest before a meeting by contacting the CEO or the Governance & Performance Department governanceandperformance@ahc.sa.gov.au. If necessary, assistance will be provided to the Member to contact the Council's lawyers directly for advice, at Council's expense.

3.8. Mayor's Opening Remarks

At each ordinary Council, the Mayor may present opening remarks which will be generally related to matters regarding the conduct of the meeting (e.g. acknowledging members of the gallery, advising break times, proposals to reorder the agenda) or to acknowledge a significant civic, cultural or other event.

3.9. Questions Adjourned/Lying on the Table

Sometimes ‘questions’⁵ being debated in the Chamber may need to be adjourned for reasons such as required information not being available at that time. In these cases a ‘formal motion’⁶ can be resolved to adjourn the matter for a later time.

Questions Adjourned

Legislation – Regulation 19

- (1) *If a formal motion for a substantive motion to be adjourned is carried:*
- (a) *The adjournment may either be to a later hour of the same day, to another day, or to another place; and*
 - (b) *The debate, will, on resumption, continue at the point at which it was adjourned.*
- (2) *If debate was interrupted for want of a quorum and the meeting is then adjourned, the debate will, on resumption, continue from the point at which it was adjourned.*
- (3) *Business adjourned from a previous meeting must be dealt with before any new business at a subsequent meeting*

The resolution to adjourn a question will nominate the time and place that debate on the question will continue and therefore they do not require a resolution for debate to resume (at the point of interruption) however these questions must be considered prior to any new business being dealt with.

Questions Lying on the Table

Questions Lying on the Table require a resolution for the question to be retrieved (and debate resumed at the point of interruption).

Legislation – Regulation 12

- (19) *Any question that lies on the table as a result of a successful formal motion under subregulation (14)(c) lapses at the next general election.*
- (20) *The chief executive must report on each question that lapses under subregulation (19) to the council at the first ordinary meeting of the council after the general election.*

3.10. Petitions

Petitions may be submitted to Council in line with Council’s *Petition Policy*. If the petition is a compliant petition for the purposes of the Act and the *Petition Policy*, it will be placed on the agenda for the next scheduled meeting of Council.

⁵ Regulation 12 (14) refers to a motion that has been moved and seconded as a ‘question’.

⁶ For more information on formal motions see clause 4.3 of this Code.

The Council agenda will contain a report regarding petition(s) received. The report will contain the nature of the request or submission, the name and locality of the Principal Signatory, a brief statement as to the nature of the request or submissions, the number of signatories and an Officer's Response providing a brief commentary on the relationship/relevance of the petition topic to Council services/activities/plans/strategies/resolutions and options available to Council to address the petition request.

A full copy of the petition will not be included in the agenda to protect the privacy of individuals. Council Members may request a copy of the petition and it is the Members' responsibility not to distribute or publish a copy of the full petition.

If, in consideration of a petition, a Council Member determines to move a Motion Without Notice, the Council will deal with the motion at that point in the agenda, subject to the compliance with the applicable requirements of legislation/policy.

3.11. Deputations

A deputation is a formal opportunity to address the Council on a particular matter during a meeting.

Legislation – Regulation 11

Deputation means a person or group of persons who wish to appear personally before a council or council committee in order to address the council or committee (as the case may be) on a particular matter.

- (1) *A person or persons wishing to appear as a deputation at a meeting must deliver (to the council by means determined by the chief executive officer)(to the principal office of the council) a written request to the council.*
- (2) *The chief executive officer must transmit a request received under subregulation (1) to the presiding member.*

Making a Deputation Request

A person or persons wishing to appear as a deputation at a Council meeting must forward a written request to the CEO, indicating the reasons for the deputation. Deputations will be limited to a maximum of two (2) per Ordinary Council meeting.

A person or persons wishing to appear as a deputation at a meeting may only appear by electronic means.

In the normal course of events the deputation request must be received no less than seven (7) clear days prior to the Council meeting, for inclusion in the Agenda. Details of Council meeting dates are contained on the Council website ~~and at Council's Service Centres.~~

If however the matter relates to an item of business on the Agenda and there are not two (2) deputations already approved for the meeting, the Deputation Request Form may be lodged up to 5.00pm on the day prior to the Council meeting.

A request to make a deputation should be made by submitting a *Deputation Request Form*, which is available on Council's website ~~and at Council's Service Centres.~~ The Form, which must be completed in full, includes an acknowledgment of the deputation obligations and procedures to be observed at the meeting.

A deputation may comprise one (1) or a number of persons. When a deputation appears at a meeting up to two (2) members of the deputation (e.g. deputees) will be allowed to speak, and to reply to questions from Council Members.

Should a deputee be speaking on behalf of an association, organisation or other body, they may be required to provide a copy of the constitution and rules of that organisation, association or other body prior to the deputees address.

Processing a Deputation Request

Legislation – Regulation 11

<i>(3) The presiding member may refuse to allow the deputation to appear at a meeting.</i>
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Whether or not a deputation may appear is to be determined on a case-by-case basis by the Mayor. In determining whether a deputation request is granted the following considerations will be taken into account:

- the number of deputations that have already been granted for the meeting;
- the subject matter of the proposed deputation;
- relevance to the Council agenda nominated – and if not, relevance to the Council’s powers or purpose;
- the integrity of the request (i.e. whether it is considered to be frivolous and/or vexatious);
- the size and extent of the agenda for the particular meeting; and
- the number of times the deputee has addressed Council (either in a deputation or public forum) on the subject matter or a similar subject matter.

Legislation – Regulation 11 (cont.)
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<i>(4) The chief executive officer must take reasonable steps to ensure that the person or persons who requested a deputation are informed of the outcome of the request.</i>

Written notification will be forwarded to the person who made the request for a deputation notifying them of the outcome of the deputation request. If approved they will be notified of the date and time of the meeting at which the deputation will be heard and the method by which the person or persons are to appear at the meeting.

Legislation – Regulation 11 (cont.)
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| <i>(5) If the presiding member refuses to allow a deputation to appear at a meeting, the presiding member must report the decision to the next meeting of the council or council committee (as the case may be).</i> |
| <i>(6) The council or council committee may resolve to allow a deputation to appear despite a contrary ruling by the presiding member.</i> |
| <i>(7) A council may refer the hearing of a deputation to a council committee.</i> |

If the deputees wish for notes or other documents to be distributed for the deputation, these are to be provided to the Minute Secretary up to 5.00pm on the day prior to the Council meeting to distribute electronically to the Council members. No documents will be distributed during the meeting.

Presenting a Deputation at a Council Meeting

The deputees microphone will be unmuted and they will be invited by the Mayor to ~~come forward and~~ make the deputation on the topic or issue which has been nominated. The deputees must state their name and locality, which will be recorded in the minutes to the meeting (which is a public document).

~~If notes or other documents are to be distributed for the deputation, fifteen (15) copies are to be provided to the Minute Secretary prior to the commencement of the meeting to distribute and may not be distributed at the meeting by the deputees. Any documents distributed during the meeting will be recorded in the minutes.~~

Powerpoint (or similar) presentations are to be lodged up to 5.00pm on the day prior to the Council meeting for the purposes of confirming software compatibility and content suitability. Presentations provided at the Council meeting will not be displayed during the deputation.

Deputees may address questions to the Council. The Mayor will determine if an answer is to be provided.

In the interests of fairness, each deputation is to be no longer than ten (10) minutes in duration. Deputees may address questions to the Council which must be accommodated within the 10 minute allocation. The Mayor will determine if an answer is to be provided to any questions asked.

Following the Deputation, a maximum of five (5) minutes will be allocated for Members to direct questions to the deputees if required. Members of Council may ask questions of the deputees presenting. Care should be exercised in framing questions to ensure they clearly relate to the subject of the deputation. The Mayor will use his/her best endeavours to manage this process fairly.

Notes or presentation material provided as part of the deputation will be referenced in the minutes of the meeting.

Deputation Conduct

All deputations are to be conducted in an orderly manner. Deputations should reflect levels of formality appropriate to the nature and scope of the Council meeting. Any comments that may amount to a criticism of individual Council Members or Officers must not be made during the deputees' address. Any such criticism or comments should properly be directed in writing to the CEO.

Council meetings are also open to the public and there is unlikely to be any legal protection or other privilege attached to any statements made during a deputation in this forum. This means that anything said during the deputees' address is subject to the normal laws of defamation. Consequently all deputees should take care in the statements they make and how they make their address.

An 'Information Sheet – Deputations and Public Forums – How to Address Council or Council Committees on Issues of Concern' provides a summary of the above requirements and is available on the Council website.

3.12. Public Forums

For the effective duration of the *Electronic Participation in Council Meetings Notice (No 1) 2020*, Council will not conduct a Public Forum during the Council meeting.

The Public Forum is a less formal opportunity to address Council on a particular matter during the meeting.

The guidelines which apply to Public Forum are:

- The total time allocation for the Public Forum will be ten (10) minutes, except with leave from the Council, in which case the time allocation can be increased.
- Each speaker in the Public Forum will have no longer than five (5) minutes (including questions), except with leave from the Council.
- If a large number of presentations have been requested, with leave from the Council, the time allocation of five (5) minutes may be reduced.
- People wishing to speak in the public forum (speakers) must advise the Mayor of their intention at the beginning of this section of the meeting. Those who do not flag their desire to speak at this time will only be permitted to speak at the discretion of the Mayor.
- Where an intending speaker has made a deputation at the same meeting of Council they will not be permitted to speak in the public forum on the same or similar subject matter at that meeting.
- Upon being requested to come forward to address the Council, the Mayor will ask the speaker to state their name and locality and the subject matter they wish to speak on.
- These details will be recorded in the minutes of the meeting (which is a public document).
- The speaker will then wait for the Mayor to invite them to commence their speech.
- The speaker may address questions to the Council which must be accommodated within the five (5) minute allocation. The Mayor will determine if an answer is to be provided to any questions asked.
- Where a number of speakers are speaking on the same topic, the Mayor may encourage subsequent speakers to avoid repeating previous points and to focus on new points.
- Members may ask questions of all speakers appearing relating to the subject of their presentation.

Public Forum Conduct

All public forum presentations are to be conducted in an orderly manner. These should reflect levels of formality appropriate to the nature and scope of the Council meeting. Any comments that may amount to a criticism of individual Council Members or Officers must not be made during the presentation. Any such criticism or comments should properly be directed in writing to the CEO.

~~Council meetings are also open to the public and there is unlikely to be any legal protection or other privilege attached to any statements made during a presentation in this forum. This means that anything said during the speaker's address is subject to the normal laws of defamation. Consequently all speakers should take care in the statements they make and how they make their address.~~

~~An 'Information Sheet – Deputations and Public Forums – How to Address Council or Council Committees on Issues of Concern' provides a summary of the above requirements and is available on the Council website.~~

3.13. Presentations

Presentations are defined as an opportunity for an organisation, community group, Council Officer(s) or member of the public to address Council to provide information relevant to the Council at the invitation of Council.

Such presentations do not include deputations or representations under the *Development Act 1993* or the *Planning, Development and Infrastructure Act 2016*.

The duration of each presentation is to be no longer than twenty (20) minutes plus ten (10) minutes for questions, if required. There is to be a limit of two (2) presentations per scheduled meeting, except with the leave of the meeting.

If notes or other documents are to be distributed for the presentation, ~~fifteen (15) copies~~ these are to be provided to the Minute Secretary up to 5.00pm on the day prior to the Council meeting to distribute electronically to the Council members. No documents will be distributed during the meeting, prior to the commencement of the meeting to distribute and may not be distributed at the meeting by the presenter.

Powerpoint (or similar) presentations are to be lodged up to 5.00pm on the day prior to the Council meeting for the purposes of confirming software compatibility and content suitability. Presentations that are not received prior to the above deadline will not be displayed at the Council meeting.

Notes or presentation material referred to as part of the presentation will be referenced in the minutes of the meeting.

3.14. Questions on Notice

Legislation – Regulation 9

- (1) A member may ask a question on notice by giving the chief executive officer written notice of the question at least 5 clear days before the date of the meeting at which the question is to be asked.
- (2) If notice of a question is given under subregulation (1) -
 - (a) the chief executive officer must ensure that the question is placed on the agenda for the meeting at which the question is to be asked; and
 - (b) the question and the reply must be entered in the minutes of the relevant meeting.
- (6) The presiding member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper.

Council Members are encouraged to submit questions on notice seven (7) clear days before the date of the meeting at which the question is to be asked to facilitate the preparation of the response.

When sending the questions to the CEO, the Member asking the question should provide a brief history, context, or reason why the question is being asked. This preamble will be included in the agenda with the question(s).

On receipt of the questions the CEO will forward the questions to Mayor. The Mayor will inform the CEO on one of the following processes:

- Request that the CEO (or delegate) respond to the questions; or
- Respond to the questions themselves; or
- Make a determination at the nominated meeting regarding the response.

Process 1

If the Mayor opts that the CEO (or delegate) responds to the questions and there is sufficient time to consider and respond to the questions, the questions and answers will appear in the Agenda and would then be replicated in the minutes in accordance with Regulation 9.

If the referral to the CEO (or delegate) does not allow for sufficient time to consider and respond to the questions and include the answers in the agenda, the CEO (or delegate) will arrange for answers to be tabled at the relevant meeting. The questions and answers will be included in the minutes in accordance with Regulation 9.

OR

Process 2

If the Mayor opts to respond to the questions they can either:

- Provide the response to the CEO and, if these answers are provided in sufficient time, the questions and answers will be included in the Agenda and would be replicated in the minutes in accordance with Regulation 9.
- Table at the meeting the written responses to the questions on the night of the nominated meeting and the questions and answers will be included in the minutes in accordance with Regulation 9.

OR

Process 3

If the Mayor opts to make a determination at the nominated meeting regarding a response, the questions will appear in the Agenda and these questions and the answers will be included in the minutes in accordance with Regulation 9.

This could include the Mayor answering the questions, referring it to the CEO (or delegate) for a response on the night or rule not to accept the questions in accordance with Regulation 9(6).

If a Mayor makes a determination that a question shall not be answered as per Regulation 9(6) the question and the reason for the determination shall be stated and recorded in the minutes.

3.15. Motions on Notice

Legislation – Regulation 12
<p>(1) A member may bring forward any business in the form of a written notice of motion.</p> <p>(2) The notice of motion must be given to the chief executive officer at least 5 clear days before the date of the meeting at which the motion is to be moved.</p> <p>(3) A motion the effect of which, if carried, would be to revoke or amend a resolution passed since the last general election of the council must be brought by written notice of motion.</p> <p>(4) If a motion under subregulation (3) is lost, a motion to the same effect cannot be brought-</p> <p>(a) until after the expiration of 12 months; or</p> <p>(b) until after the next general election, whichever is sooner</p>

Council Members are encouraged to submit motions on notice seven (7) clear days before the date of the meeting at which the motion is to be moved so that staff can prepare comments prior to the distribution of agenda papers.

Prior to lodging a motion, Members should liaise with the CEO or nominated delegates on the content of the proposed motion to explore options and implications.

In circumstances where a Motion on Notice has been placed on the Agenda and the Member who placed the Motion on Notice is not in attendance at the meeting, another Member may move the motion in their stead.

The following are desirable characteristics when framing a motion⁷:

- *Form* – a motion should be in a positive, affirmative form. It should not be in a negative form, unless it achieves some specific advantage or value;
- *Content* – a motion should be complete and plain, so that a resultant resolution when read in the future, identifies with certainty its object and substance;
- *Wording* – It should be in precise and definite language. Its intention and import should be clear; and
- *Drafting* – a motion should be framed and phrased in a way to enable persons to vote in favour of or against the proposal, and thus facilitate the ability of the meeting to make a decision,

The attached proforma should be used when framing Notices of Motion – refer **Appendix B**.

3.16. Administration Reports

Each Council agenda includes report items prepared by the Council Administration, which may include recommendations. These recommendations are not a resolution, and have no status until moved by a Member. Alternatively Members may move a completely different motion.

⁷ A. D. Lang (2015) *Horsley's Meetings procedure, Law and Practice* (7th ed.), 119.

Administration Reports to Council will be prepared using the standard format – refer **Appendix C**.

Administration Reports in the Order of Business will be grouped into the following categories:

- **Decision Items** – these are agenda items that are seeking the Council’s resolution in relation to a course of action in relation to the matter; and
- **Information Items** – these are agenda items that are informing the Council of the status of the matter. Generally, the recommendation in these reports will be for the receiving and noting of the item.

Where additional information is required this may be included as attachments to the report which will be inserted in the agenda papers immediately following the report.

In order to contain the number of reports going before Council, report writers should consider any subsequent steps and wherever practical include them in the initial report and set of recommendations. Examples of these subsequent steps that should be included in the initial report include:

- the authorisation for the Mayor and/or CEO to sign and seal documents
- authorising the Chief Executive Officer or relevant Director to make minor amendments to an associated document
- if a working party or sub-committee is required, to indicate that in the report and include a recommendation seeking nominations for Membership of the working party, etc.
- indicating a price or value range within which a delegated staff member can negotiate rather than a single fixed price.

Reports are to be prepared so as to communicate the required information in a clear and succinct way. The information presented should be impartial, balanced and evidence-based (where reasonably possible).

As per clause 2.4, to facilitate efficient and effective meetings, Council Members are encouraged to contact the CEO or nominated delegate prior to Council meetings to clarify matters appearing on the agenda. The nominated delegate is the Council Officer whose name is listed as the Responsible Officer.

In the normal course of business, report authors will not introduce their report unless requested by the Mayor. However the Mayor will ask the author whether there are any updates to be provided based on queries received or recent events since agenda distribution.

Status Report – Council and Committee Resolutions Update

A report will be provided at each Council meeting for noting, setting out the status of each resolution from Council meetings until the item is completed.

3.17. Questions Without Notice

Legislation – Regulation 9
<p>(3) <i>A member may ask a question without notice at a meeting.</i></p> <p>(4) <i>The presiding member may allow the reply to a question without notice to be given at the next meeting.</i></p> <p>(5) <i>A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve that an entry should be made.</i></p> <p>(6) <i>The presiding member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper.</i></p>

To facilitate the efficiency of meetings, Members are encouraged to use the availability of the CEO or nominated delegates prior to the meetings to clarify issues of concern.

Questions Without Notice can be asked at a meeting and the Mayor has the discretion to accept the questions in accordance with Regulation 9(6).

If the Mayor accepts the questions ~~they~~ she will make the determination to choose to answer the questions or refer them to the CEO (or delegate) for a response. Where an answer is not possible at the meeting, the questions may be taken “on notice” and a response provided by email within 14 days.

In accordance with Regulation 9(5) Questions Without Notice and the reply will not be included in the minutes unless the Council meeting resolves to do so.

3.18. Motions Without Notice

Legislation – Regulation 12
<p>(5) <i>Subject to the Act and these regulations, a Member may also bring forward any business by way of a motion without notice.</i></p> <p>(6) <i>The presiding Member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion.</i></p> <p>(7) <i>The presiding member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the council or council committee (as the case may be)</i></p>

As they have not been foreshadowed to Members or the broader community and do not have an accompanying analysis (as do Motions On Notice and Administration Reports), it is not considered to be in the interests of good governance practice, and is a denial of natural justice, to consider Motions Without Notice other than those that meet the following criteria.

In general, Motions Without Notice should be restricted to:

- A request that a report on a particular topic be presented at a future meeting;
- A simple matter, requiring little information to be considered, and the impact of which on Council is deemed to be minor;
- A matter arising from an item before Council that has been considered in detail at that meeting, and where a Motion Without Notice is seen as the best way to resolve or progress the matter in a timely manner; and/or
- A matter of such urgency and importance that failure to consider it at the meeting would be likely to result in detriment to the Council or community.

Wherever practicable, Members wishing to move a Motion Without Notice (including a motion different from a report recommendation) are encouraged to make available a written copy of their motion to assist the Mayor in the conduct of the meeting and in the subsequent preparation of the minutes of the meeting.

Following the moving of a Motion Without Notice and prior to the seeking of a seconder, the Mayor will seek advice from the CEO or nominated delegate regarding the perceived implications of the motion.

The Mayor may refuse to accept the Motion Without Notice if, after taking into account the Guiding Principles (Regulation 4 and clause 1.2 of this Code), he or she considers that the motion should be dealt with by way of a written Motion On Notice.

Any Motions Without Notice which, in the opinion of the Mayor, require action involving the expenditure of unbudgeted resources should be on the basis of a Motion On Notice.

3.19. Council Member Reports

At each ordinary Council meeting, Council Members may present a written or verbal report detailing those functions or activities on the business of Council but not the prescribed meetings of Council.

Council Members are encouraged to submit their written reports seven (7) clear business days before the date of the meeting to enable the report to be incorporated into the Agenda.

Reports will be recorded in the minutes in summary form and will not include commentary on the activities or functions reported or the attendance of other Council Members

3.20. Reports of Members/Officers as Council Representatives on External Organisations

At each Ordinary Council meeting, Members or Officers who are appointed as Council representatives on external organisations (e.g. regional subsidiaries) may provide a verbal or written report on their involvement in activities associated with that organisation.

Members and Officers are encouraged to submit their written reports seven (7) clear business days before the date of the meeting to enable the report to be incorporated into the Agenda.

3.21. CEO Report

At each ordinary Council meeting, the CEO will present a verbal report detailing the status of key activities and initiatives.

3.22. Reports of Committees

Committees will report to Council in accordance with the reporting requirements detailed in their specific terms of reference.

Council Committees will report to Council at the next Council meeting following the Committee meeting. The form of report will be by way of a verbal report from the Presiding Member (or other Member of the Committee should the Presiding Member not being present or the Presiding Member of the committee be an independent member and not a member of Council) in support of the minutes of the Committee meeting.

A copy of these minutes will be included in the Agenda of the next Council meeting. All recommendations from the Committee will be considered by Council in the form of an Administration Report.

3.23. Confidential Items

Under the provisions of Notice No 1 Council meetings ~~are open to the public- will be live streamed for the public to view the proceedings and attendance is encouraged,~~ except where the Council believes it is necessary in the broader community interest to exclude the public from the discussion (and, if necessary, decision) of a particular matter.

Before Council orders that the public be excluded ~~-to enable the receipt, discussion and consideration of a particular matter, the meeting must, in public, formally determine if this is necessary and appropriate, and then pass a resolution to exclude the public while dealing with that particular matter.~~

If this occurs then the live stream will be disconnected~~public must leave the room.~~ This means that all members of the public (including staff), unless exempted by being named in the resolution as entitled to remain, ~~are required to leave the room will not be able to view or listen to the meeting proceedings.~~ For the operation of section 90(2) of the Act a member of the public does not include a Member of Council.

Once discussion on that particular matter is concluded, the ~~public are then permitted to re-enter the meeting~~livestream will be reconnected. If there is a further matter that needs to be considered in confidence it is necessary to again undertake the formal determination process and to resolve to exclude the public as above.

Additional information of the use of the confidentiality provisions of the Act are contained in Council's *Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents.*

4. OPERATING PROCEDURES – CONDUCT AT THE MEETING

4.1. Leave of the Meeting

Legislation – Regulation 3

(4) A vote on whether leave of the meeting is granted may be conducted by a show of hands (but nothing in this subregulation prevents a division from being called in relation to the vote).

Legislation – Regulation 3

(4) For the purposes of these regulations, a vote on whether leave of the meeting is granted may be conducted by—

a. a show of hands; or

b. where a member is participating in a meeting by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative,

(but nothing in this subregulation prevents a division from being called in relation to the vote).

4.2. Motions in General, Speaking to Motions and Rights of Reply

Legislation – Regulation 12

- (5) Subject to the Act and these regulations, a Member may also bring forward any business by way of a motion without notice.*
- (6) The presiding member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion.*
- (7) The presiding member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the council or council committee (as the case may be)*
- (8) A motion will lapse if it is not seconded at the appropriate time.*
- (9) A member moving or seconding a motion will speak to the motion at the time of moving or seconding the motion.*
- (10) A member may only speak once to a motion except-*
- (a) to provide an explanation in regard to a material part of his or her speech, but not so as to introduce any new matter; or*
- (b) with leave of the meeting ; or*
- (c) as the mover in reply.*
- (11) A member who has spoken to a motion may not at a later stage of the debate move or second an amendment to the motion*

Seconding Speaking to a Motion

Regulation 12(9) is able to be varied at the discretion of Council and therefore Council has determined that the seconder has the option of reserving their right to speak to the motion at the time of seconding but if they choose to exercise this right it must be done prior to the mover in reply.

For clarity, where a Member seconds a motion and reserves their right to speak to it, they will not be considered to have spoken to the motion until they have exercised that right.

Questions Regarding a Motion

Council Members may ask and answer questions regarding a motion for the purpose of clarification (but not debate) and this will not be considered as speaking to the motion. Members should ensure that it is clearly a question and not used as an opportunity to contribute to the debate.

Rights of Reply

Only the mover of the original motion will be granted the right to reply (this shall close the debate). This will occur after any or all amendments have been dealt with and immediately prior to the original motion or substantive motion being put to the meeting (i.e. immediately prior to the final vote).

The right of reply should be utilised to reinforce the rationale for moving the motion and to respond to issues raised in debate. Where possible, it should not be used to introduce new material into the debate.

4.3. Formal Motions

Legislation – Regulation 12

- (12) A member who has not spoken in the debate on a question may move a formal motion.
- (13) A formal motion must be in the form of a motion set out in subregulation (14) (and no other formal motion to a different effect will be recognised).
- (14) If the formal motion is:-
- (a) that **the meeting proceed to the next business**, then the effect of the motion, if successful, is, in the case of an amendment, that the amendment lapses and the meeting proceeds with the consideration of the motion before the meeting without further reference to the amendment and, in the case of a motion, that the motion lapses and the meeting proceeds to the next item of business; or
 - (b) that **the question be put**, then the effect of the motion, if successful, is that debate is terminated and the question put to the vote by the presiding member without further debate; or
 - (c) that **the question lie on the table**, then the effect of the motion, if successful, is that the meeting immediately moves to the next item of business and the question can then only be retrieved at a later time by resolution (and, if so retrieved, debate is then resumed at the point of interruption); or
 - (d) that **the question be adjourned**, then the effect of the motion, if successful, is that the question is disposed of for the time being but debate can be resumed at the later time (at the point of interruption); or
 - (e) that **the meeting be adjourned**, then the effect of the motion, if successful, is that the meeting is brought to an end immediately without the consideration of further business.
- (15) If seconded, a formal motion takes precedence and will be put by the presiding member without discussion unless the motion is for an adjournment (in which case discussion may occur (but only occur) on the details for resumption).
- (16) A formal motion does not constitute an amendment to a substantive motion.
- (17) If a formal motion is lost-
- (a) the meeting will be resumed at the point at which it was interrupted; and
 - (b) if the formal motion was put during debate (and not at the end of debate) on a question, then a similar formal motion (i.e., a motion to the same

- effect) cannot be put until at least 1 member has spoken on the question.*
- (18) A formal motion for adjournment must include the reason for the adjournment and the details for resumption.*
- (19) Any question that lies on the table as a result of a successful formal motion under subregulation (14)(c) lapses at the next general election.*

For clarity, a ‘question’ as referred to Regulation 12 (14)(b-d) is a motion that has been moved and seconded.

A formal motion “the question be adjourned” must include the reasons for the adjournment and the details of time and place for the resumption of the debate.

If a formal motion that ‘the question lie on the table’ or “the question or meeting be adjourned” as per Regulation 14(c), (d) and (e) is carried, the minutes shall record those that have spoken in the debate. This will ensure that the debate can recommence at the point of the interruption.

4.4. Amendments to Motions

Legislation – Regulation 12
<i>(11) A member who has spoken to a motion may not at a later stage of the debate move or second an amendment to the motion.</i>

Legislation – Regulation 13
<i>(1) A member who has not spoken to a motion at an earlier stage of the debate may move or second an amendment to the motion.</i>
<i>(2) An amendment will lapse if it is not seconded at the appropriate time.</i>
<i>(3) A person who moves or seconds an amendment (and, if he or she chooses to do so, speaks to the amendment) will, in so doing, be taken to have spoken to the motion to which the amendment relates.</i>
<i>(4) If an amendment is lost, only 1 further amendment may be moved to the original motion.</i>
<i>(5) If an amendment is carried, only 1 further amendment may be moved to the original motion.</i>

The purpose of an amendment is to refine or modify the substantive motion but not to substantially change the intent of the motion or contradict it. The Mayor will not accept a proposed amendment that is direct negative of the motion.

For the avoidance of doubt, any Member (including the mover and seconder of the original motion and any other person who has spoken to the original motion at an earlier stage) is entitled to speak to the amendment and, in doing so, is not taken to have spoken to the original motion.

Members speaking in a debate on an amendment must confine their remarks to the amendment and not debate the substantive motion.

There is no right of reply to an amendment because it is not a motion. Likewise, no division can be called on an amendment because it is not a motion.

4.5. Variations

Legislation – Regulation 14

- (1) *The mover of a motion or amendment may, with the consent of the seconder, request leave of the meeting to vary, alter or withdraw the motion or amendment.*
- (2) *The presiding member must immediately put the question for leave to be granted and no debate will be allowed on that question.*

The withdrawal of a motion does not preclude another motion on the same matter being moved. Variations, alterations or withdrawal of a motion will be minuted in accordance with Regulation 8(4)(d).

4.6. Addresses by Members

Legislation – Regulation 15

- (1) *A member must not speak for longer than 5 minutes at any 1 time without leave of the meeting*
- (2) *A member may, with leave of the meeting, raise a matter of urgency*
- (3) *A member may, with leave of the meeting, make a personal explanation*
- (4) *The subject matter of a personal explanation may not be debated*
- (5) *The contribution of a member must be relevant to the subject matter of the debate*

A personal explanation should provide the Member's account of the reasons or factors regarding an event or situation in which he/she had an involvement. The explanation should not: (a) make imputations of improper motives or contain personal opinions on fellow Council Members, the Administration or members of the public; or (b) be used for making statements regarding Council resolutions.

If a Member making a personal explanation wishes that the full text of that Personal Explanation be included in the minutes, it may be included by resolution of the Council, if not, only a brief account shall be included.

4.7. Voting

Council Meetings

Voting in Council meetings is applied as follows:

Legislation – Regulation 16

- (1) *The presiding member, or any other member, may ask the chief executive officer to read out a motion before a vote is taken.*
- (2) *The presiding member will, in taking a vote, ask for the votes of those members in favour of the question and then for the votes of those members against the question (and may do so as often as is necessary to enable him or her to determine the result of the voting), and will then declare the outcome.*
- 3) *A person who is not in his or her seat is not permitted to vote*
- 4) *Subregulation (3)–*

- a) may be varied at the discretion of the council pursuant to regulation 6;
 - b) does not apply in relation to a member participating in a council committee meeting by telephone or electronic means approved in accordance with procedures determined by the council or council committee for the purposes of section 89 of the Act; and
 - c) is varied in relation to a member participating in a council meeting by electronic means such that the reference to “not in his or her seat” is taken to include a disconnection of the electronic means.
- 5) In this regulation— **disconnection of the electronic means** includes—
- a) ending a telephone connection such that the discussion and voting at the meeting cannot be heard;
 - b) ending a telephone connection such that the discussion and voting at the meeting cannot be heard;
 - c) logging out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard;
 - d) signing out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard; or
 - e) disconnecting any other electronic means such that the discussion and voting at the meeting cannot be seen or heard.

Each Member present at the meeting of council, must, subject to the provisions of the Act to the contrary, vote on a question arising from that meeting [section 86(4)].

The Mayor, or another member presiding in the absence of the Mayor, at a meeting of council, does not have a deliberative vote on a question arising but has, in the event of an equality of votes, a casting vote [section 86(6)].

In most cases the requirement is a simple majority of the members present and entitled to vote however there are provisions in both the Act and the Regulations that require either a two-thirds or an absolute majority of the members of Council for resolutions on specified matters.

A vote in relation to a question for decision before the Council may be taken:

- (a) a show of hands; or
- (b) where a member is participating in a meeting by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative.

The presiding member, or any other member, may ask the CEO to read out a motion or amendment before a vote is taken.

In relation to a member participating in a Council meeting by electronic means, a member is not permitted to vote in circumstances where there has been a disconnection of the electronic means.

Appointments to Positions

Due to the potential implications of the Conflict of Interest provisions under s73 and s75 regarding the appointment of Council Members to positions (particularly those with potential personal or pecuniary benefits), the Council should adjourn the meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote (Indicative Voting Process) to determine the preferred person for the positions.

As the Indicative Voting Process involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the Council, it is a Designated Informal Gathering for the purposes of s90 and the *Informal Council and Council Committee Gatherings and Discussions Policy* (the Policy). As a Designated Informal Gathering, the Chief Executive will conduct the meeting in accordance with the Policy.

The Indicative Voting Process is:

- a) The Mayor seeks a motion to adjourn the meeting for the purpose of conducting an Indicative Voting Process.
- b) Once the meeting is adjourned (and the Designated Informal Gathering has commenced), the Chief Executive Officer calls for self-nominations for the position(s). If Council Officers or Independent Committee Members are eligible for appointment to the position, they can also self-nominate.
- c) If the number of nominees is equal to or less than the number of positions, no election will be required. If the number of nominees is greater, an election will be necessary.
- d) The CEO will appoint a Council Officer as the Returning Officer and may enlist other Council Officers to assist with the conduct of the vote and the count.
- e) The method of voting will be by secret ballot utilising the preferential counting system
- f) Each Council Member (including the Mayor) shall have one vote.
- g) Ballot papers will be provided to each Council Member
- h) The nominee's names will be drawn by the Returning Officer to determine the order on the ballot paper.
- i) Each nominee will have two (2) minutes to speak to the Gathering in support of their candidacy. The speaking order will be as listed on the ballot paper.
- j) Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer (another Council Officer) present.
- k) In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- l) After all votes have been counted, the Returning Officer shall return to the Gathering and publicly declare the result of the election (i.e. the preferred person).
- m) The ballot papers will be shredded.
- n) With the conclusion of the Indicative Voting Process, the Council meeting will resume in accordance with the adjournment resolution.
- o) Upon resumption, any Council Members who nominated for the positions would be advised to consider their obligations under s74 or s75A of the Act (as applicable).
- p) Council can then consider a motion for the preferred person to be appointed to the position(s)

4.8. Divisions

Legislation – Regulation 17

- (1) A division will be taken at the request of a member.
- (2) If a division is called for, it must be taken immediately and the previous decision of the presiding member as to whether the motion was carried or lost is set aside.
- (3) The division will be taken as follows:
 - (a) ~~subject to subregulation (3a), the members voting in the affirmative will, until the vote is recorded, stand in their places; the members voting in the affirmative will, until the vote is recorded, stand in their places;~~
 - (b) ~~subject to subregulation (3a), the members voting in the negative will, until the vote is recorded, sit in their seats; the members voting in the negative will, until the vote is recorded, sit in their seats;~~
 - (c) the presiding member will count the number of votes and then declare the outcome.

(3a) Where a member is participating in a meeting by electronic means which has audio only, the member will provide a verbal indication of voting in the affirmative or voting in the negative.
- (4) The chief executive officer will record in the minutes the names of members who voted in the affirmative and the names of the members who voted in the negative (in addition to the result of the vote).
- (5) Subregulation (3) may be varied at the discretion of the council pursuant to regulation 6

4.9. Tabling of Information

Legislation – Regulation 18

- (1) A member may require the chief executive officer to table any documents of the council relating to a motion that is before a meeting (and the chief executive officer must then table the documents within a reasonable time, or at a time determined by the presiding member after taking into account the wishes of the meeting, and if the member who has required the tabling indicates that he or she is unwilling to vote on the motion until the documents are tabled, then the matter must not be put to the vote until the documents are tabled).
- (2) The chief executive officer may, in tabling a document, indicate that in his or her opinion consideration should be given to dealing with the document on a confidential basis under section 90 or 91 of the Act.

A record of any request for documents tabled at the meeting and a record of any documents tabled at the meeting must be made in the minutes of the meeting.

If the tabling of documents is crucial to the consideration of the matter, the meeting may consider a formal motion to adjourn the question.

4.10. Short-Term Suspension of Proceedings

Legislation – Regulation 20

- (1) If the presiding member considers that the conduct of a meeting would benefit from suspending the operation of all or some of the provisions of this Division for a period of time in order to allow or facilitate informal discussions, the presiding member may, with the approval of at least two-thirds of the members present at the meeting, suspend the operation of this Division (or any part of this Division) for a period determined by the presiding member.*
- (2) The Guiding Principles must be taken into account when considering whether to act under subregulation (1).*
- (3) If a suspension occurs under subregulation (1)—*
 - (a) a note of the suspension, including the reasons for and period of suspension, must be entered in the minutes; and*
 - (b) the meeting may proceed provided that a quorum is maintained but, during the period of suspension—*
 - (i) the provisions of the Act must continue to be observed; and*
 - (ii) no act or discussion will have any status or significance under the provisions which have been suspended; and*
 - (iii) no motion may be moved, seconded, amended or voted on, other than a motion that the period of suspension should be brought to an end; and*
 - (c) the period of suspension should be limited to achieving the purpose for which it was declared; and*
 - (d) the period of suspension will come to an end if—*
 - (i) the presiding member determines that the period should be brought to an end; or*
 - (ii) at least two-thirds of the members present at the meeting resolve that the period should be brought to an end.*

Use of a short term suspension can be useful when members could benefit from some informal sharing of ideas, opinions without the constraints of speaking to motions.

4.11. Points of Order

Legislation – Regulation 28	
(1)	<i>The presiding member may call to order a member who is in breach of the Act or these regulations</i>
(2)	<i>A member may draw to the attention of the presiding member a breach of the Act or these regulations, and must state briefly the nature of the alleged breach</i>
(3)	<i>A point of order takes precedence over all other business until determined</i>
(4)	<i>The presiding member will rule on a point of order</i>
(5)	<i>If an objection is taken to the ruling of the presiding member, a motion that the ruling not be agreed with must be moved immediately</i>
(6)	<i>The presiding member is entitled to make a statement in support of the ruling before a motion under subregulation (5) is put</i>
(7)	<i>A resolution under subregulation (5) binds the meeting and, if a ruling is not agreed with –</i>
(a)	<i>the ruling has no effect; and</i>
(b)	<i>the point of order is annulled</i>

Points of order are not recorded in the minutes. The only entry in the minutes in relation to a point of order would be to record the process of a motion to disagree with a ruling by the Mayor.

4.12. Interruption of Meetings by Members

Legislation – Regulation 29	
(1)	<i>A member of a council or council committee must not, while at a meeting –</i>
(a)	<i>behave in an improper or disorderly manner or</i>
(b)	<i>cause an interruption or interrupt another member who is speaking</i>
(2)	<i>Subregulation (1)(b) does not apply to a member who is –</i>
(a)	<i>objecting to words used by a member who is speaking or</i>
(b)	<i>calling attention to a point of order or</i>
(c)	<i>calling attention to want of a quorum</i>
(3)	<i>If the presiding member considers that a member may have acted in contravention of subregulation (1), the member must be allowed to make a personal explanation</i>
(4)	<i>Subject to complying with subregulation (3), the relevant member must leave the meeting while the matter is considered by the meeting</i>
(5)	<i>If the remaining members resolve that a contravention of subregulation (1) has occurred, those members may, by resolution –</i>
(a)	<i>censure the member or</i>
(b)	<i>suspend the member for a part, or for the remainder, of the meeting</i>
(6)	<i>A member who –</i>
(a)	<i>refuses to leave a meeting in contravention of subregulation (4) or</i>
(b)	<i>enters a meeting in contravention of a suspension under subregulation (5)</i>
	<i>is guilty of an offence.</i>

Offences under Regulation 29 carry a financial penalty.

4.13. Interruption of Meetings by Others

Legislation – Regulation 29
A member of the public who is present at a meeting of a council or council committee must not –
(a) behave in a disorderly manner or
(b) cause an interruption

Offences under Regulation 29 carry a financial penalty.

4.14. Meeting Protocols

Mobile Phones/Pagers

Mobile phones/pagers will be switched off or silent during Council meetings unless prior approval is granted by the Mayor for the phone/pager to remain active.

Speaking during meetings

Council Members and Council Officers will raise their hand ([in full view of the device's camera](#)) and wait to be invited to speak by the Mayor prior to addressing the Council.

Upon being invited to speak, the Member or Officer will ~~turn unmute~~ their microphone ~~on~~ for the duration of their speech and will ~~turn themute their~~ microphone ~~off~~ when concluded.

When addressing Council, the Member or Officer will speak 'through the chair' (e.g. 'through your Worship').

Forms of Address

The Mayor shall be addressed as Your Worship or Mayor.

Councillors should be referred to as 'Councillor' followed by their surname.

Council Officers should be referred to by the relevant prefix followed by their surname or by their position title (i.e. CEO, Director Community Capacity).

Interaction with the Gallery

The Mayor may speak to members of the Gallery for the purposes of welcoming attendees, arranging Deputies and Public Forum speakers and providing other information related to the functioning of the meeting.

Councillors will not speak to members of the Gallery during the meeting or accept notes from those present in the Gallery. The only exception is when Members of the Gallery are making a Deputation or speaking in the Public Forum.

5. OPERATING PROCEDURES – DOCUMENTATION OF THE MEETING

5.1. Recording of Meetings

For the duration of Electronic Participation in Council Meetings Notice (No 1) 2020, Council meetings will be recorded using the electronic meeting software (i.e. audio and visual).

As a general rule, ~~audio-the~~ recordings will be captured by the Administration of open Council meetings to be used for the purpose of:

- assisting in the preparation of minutes
- ensuring decisions are accurately recorded
- verifying the accuracy of minutes prior to their confirmation.

~~Audio-r~~Recordings will be managed in accordance with the provisions of the *State Records Act 1997*, *Surveillance Devices Act 2016* and the *Freedom of Information Act 1991*.

The ~~audio-~~recording is an internal working document and is not the official record of the meeting. The official record of the meeting is the meeting minutes which require confirmation by resolution and are signed by the Mayor.

Council is not obliged to provide the public with access to ~~audio-the~~ recordings of Council meetings. Members of the public are required to apply under the FOI Act.

~~Audio-r~~Recordings will be provided to Council Members under the following conditions:

- Requests to access ~~audio-the~~ recordings must be made via the Chief Executive Officer.
- ~~Audio-r~~Recordings ~~are not to leave Council premises and~~ are provided to Council Members on the basis that they are not to be provided to any other person and are not to be duplicated.

5.2. Livestreaming of Meetings

For the duration of Electronic Participation in Council Meetings Notice (No 1) 2020, Council meetings will be livestreamed using the electronic meeting software (i.e. audio and visual).

Details of the livestream will be included on the Council website to enable members of the public to observe the meeting. The livestream settings will not allow the public to participate in the meeting.

Further information on the public access to Council Meetings can be found in the *Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents*.

5.2.5.3. Minutes of Meetings

In accordance with section 91 of the *Local Government Act 1999*, the CEO must ensure that minutes are kept of the proceedings at every meeting of Council.

If the CEO is excluded from a meeting, the Mayor must ensure the minutes are kept.

Each Member of the Council must, within five (5) days after a meeting of a Council, be supplied with a copy of all minutes of the proceedings of the meeting.

Minutes of all Council meetings will be posted on Council's website ~~and available at the Stirling, Woodside or Gumeracha Service Centres~~ as soon as practicable after they are completed.

More information of public access to Council documents is contained in the *Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents*.

Legislation – Regulation 8

- (1) *The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.*
- (2) *No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.*
- (3) *On the confirmation of the minutes, the presiding member will -*
 - (a) *initial each page of the minutes, which pages are to be consecutively numbered; and*
 - (b) *place his or her signature and the date of confirmation at the foot of the last page of the minutes.*

(3a) For the purposes of subregulation (3), the presiding member may initial or sign the minutes in hardcopy or electronically.
- (4) *The minutes of the proceedings of a meeting must include –*
 - (a) *the names of the members present at the meeting; and*
 - (b) *in relation to each member present -*
 - (i) *the time at which the person entered or left the meeting; and*
 - (ii) *unless the person is present for the whole meeting, the point in the proceedings at which the person entered or left the meeting;*
 - (iii) the method of attendance by the person; and*
 - (c) *each motion or amendment, and the names of the mover and seconder; and*
 - (d) *any variation, alteration or withdrawal of a motion or amendment; and*
 - (e) *whether a motion or amendment is carried or lost; and*
 - (f) *any disclosure of interest made by a member; and*
 - (g) *an account of any personal explanation given by a member; and*
 - (h) *details of the making of an order under subsection (2) of section 90 of the Act (see subsection (7) of that section); and*
 - (i) *a note of the making of an order under subsection (7) of section 91 of the Act in accordance with the requirements of subsection (9) of that section; and*
 - (j) *details of any adjournment of business; and*
 - (k) *a record of any request for documents to be tabled at the meeting; and*
 - (l) *a record of any documents tabled at the meeting; and*
 - (m) *a description of any oral briefing given to the meeting on a matter of*

- council business; and*
- (n) *any other matter required to be included in the minutes by or under the Act or any regulation.*

In accordance with Notice No 1 and further to Regulation 8(4)(iii), the minutes of the proceedings of a meeting must include in relation to each member present at the meeting the method of attendance by the person.

Example:

The following are examples of methods of attendance:

- (a) physical attendance;
- (b) by an audio-visual link;
- (c) by an audio link;
- (d) by telephone.

As the minutes are a reflection of decisions made by meeting as a whole, minutes of the meeting do not record (with the exception of Division in accordance with Regulation 17 and as required under section 75A – *Dealing with actual and perceived conflicts of interest*) the names of the Members who voted in the affirmative or negative for a particular item. Minutes will also not record or reflect specifics of debate of an item.

6. ADMINISTRATIVE ARRANGEMENTS

6.1. Availability of the Code

This Code is available ~~for inspection at the Council's Offices during ordinary business hours~~ and via the Council's website www.ahc.sa.gov.au. Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

6.2. Delegation

The CEO has the delegation to:

- Approve, amend and review any procedures that shall be consistent with this Code.
- Make any formatting, nomenclature or other minor changes to the Code during the period of its currency.

APPENDIX A - AGENDA TEMPLATE FOR ORDINARY COUNCIL MEETINGS

- 1. COMMENCEMENT**
- 2. OPENING STATEMENT**
- 3. APOLOGIES/LEAVE OF ABSENCE**
 - 3.1. Apology**
 - 3.2. Leave of Absence**
 - 3.3. Absent**
- 4. MINUTES OF PREVIOUS MEETINGS**
- 5. DECLARATION OF INTEREST BY MEMBERS**
- 6. MAYOR'S OPENING REMARKS**
- 7. QUESTIONS ADJOURNED/LYING ON THE TABLE**
 - 7.1. Questions Adjourned**
 - 7.2. Questions Lying on the Table**
- 8. PETITIONS / DEPUTATIONS / PUBLIC FORUM**
 - 8.1. Petitions**
 - 8.2. Deputations**
 - 8.3. Public Forum**
- 9. PRESENTATIONS**
- 10. QUESTIONS ON NOTICE**
- 11. MOTIONS ON NOTICE**
- 12. ADMINISTRATION REPORTS – DECISION ITEMS**
- 13. ADMINISTRATION REPORTS – INFORMATION ITEMS**
- 14. QUESTIONS WITHOUT NOTICE**
- 15. MOTIONS WITHOUT NOTICE**
- 16. REPORTS**
 - 16.1. Council Member Reports**
 - 16.2. Reports of Members/Officers as Council Representatives on External Organisations**
 - 16.3. CEO Report**
- 17. REPORTS OF COMMITTEES**
- 18. CONFIDENTIAL ITEMS**
- 19. NEXT MEETING**
- 20. CLOSE MEETING**

APPENDIX B – MOTION ON NOTICE TEMPLATE

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
<day> <date>
AGENDA BUSINESS ITEM**

Item: 12.1 Motion on Notice

Originating from:

Subject:

1. MOTION

I move... <body of motion>

2. BACKGROUND

3. OFFICER'S RESPONSE – Officer Name, Position

GOVERNANCE (for guidance on completing this section, see the Council report template)

- **Strategic Management Plan/ Functional Strategy/Council Policy Alignment**
- **Legal Implications**
- **Risk Management Implications**
- **Financial and Resource Implications**
- **Customer Service and Community/Cultural Implications**
- **Sustainability Implications**
- **Engagement/Consultation conducted in the development of the report**

ANALYSIS

APPENDIX C – ADMINISTRATION REPORT TEMPLATE

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
<day> <date>
AGENDA BUSINESS ITEM**

Item: 12.

Responsible Officer:

Subject:

For: Decision/Information

SUMMARY

RECOMMENDATION

That Council resolves:

1. To receive and note the report
- 2.

1. GOVERNANCE

- Strategic Management Plan/ Functional Strategy/Council Policy Alignment
- Legal Implications
- Risk Management Implications
- Financial and Resource Implications
- Customer Service and Community/Cultural Implications
- Sustainability Implications
- Engagement/Consultation conducted in the development of the report

2. BACKGROUND

3. ANALYSIS


4. OPTIONS

5. APPENDICES

Appendix 4

*Draft Code of Practice for Access to Council, Council
Committee and Designated Informal Gathering
Meetings & Documents – April 2020*

COUNCIL POLICY

 <p>Adelaide Hills COUNCIL</p>	<p>CODE OF PRACTICE FOR ACCESS TO COUNCIL, COUNCIL COMMITTEE AND DESIGNATED INFORMAL GATHERING MEETINGS & DOCUMENTS</p>
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Policy Number:	GOV-17
Responsible Department(s):	Governance & Performance
Relevant Delegations:	<u>As per the delegations schedule and as included in this Code</u> None
Other Relevant Policies:	<i>Code of Practice for Meeting Procedures Council Member Conduct Policy Informal Council and Council Committee Gatherings and Discussions Policy Advisory Group Operation and Conduct Policy</i>
Relevant Procedure(s):	None
Relevant Legislation:	<i>Local Government Act 1999 Local Government (General) Regulations 2013 <u>Electronic Participation in Council Meetings Notice (No 1) 2020</u></i>
Policies and Procedures Superseded by this policy on its Adoption:	<i>Code of Practice for Access to Council, Council Committee and Designated Informal Gatherings Meetings & Documents - 14 November 2017, Item 5.2, 264/17</i>
Adoption Authority:	Council
Date of Adoption:	23 April 2019
Effective From:	7 May 2019
Minute Reference for Adoption:	23 April 2019, Item 12.7, 75/19
Next Review:	No later than November 2023 or as required by legislation or changed circumstances

Version Control

<u>Version No.</u>	<u>Date of Effect</u>	<u>Description of Change(s)</u>	<u>Approval</u>
<u>1.1a</u>	<u>To be updated administratively</u>	<u>Amendments to provide consistency with <i>Electronic Participation in Council Meetings Notice (No 1) 2020</i></u>	<u>To be updated administratively</u>

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CODE OF PRACTICE FOR ACCESS TO COUNCIL, COUNCIL COMMITTEE AND DESIGNATED INFORMAL GATHERING MEETINGS & DOCUMENTS

1. INTRODUCTION

1.1. This Code sets out the commitment of Council to provide public access to Council, Council Committee and Designated Informal Gathering meetings and Council and Council Committee documents and outlines the policies and procedures contained within the Act, to restrict public access. The Code includes:

- information on the relevant provisions of the Act;
- Council's policy on public access and participation;
- the process that will be adopted where public access to a meeting or a document is restricted;
- grievance procedures to be followed if a member of the public believes that the Council has unreasonably restricted public access on a particular matter.

1.2. This Code sets out the policy of Council for access to meetings and documents and includes information relating to:

- access to the agenda for meetings;
- public access to meetings;
- the process to exclude the public from meetings;
- matters for which the Council, a Council Committee, or a Designated Informal Gathering can order that the public be excluded;
- how the Council will approach the use of the confidentiality provisions in the Act;
- public access to documents, including minutes;
- review of confidentiality orders;
- accountability and reporting to the community, and the availability of the code; and
- grievances about the use of the code by Council.

1.3. On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

1.4. On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

1.5. On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the *Local Government Act 1999 (Notice No 1)* varying or suspending the operation of the specified provisions of the Local Government Act 1999 as set out in Schedule 1 to Notice No 1. Notice No 1 commenced operation on 31 March 2020.

2. STATEMENT OF PRINCIPLE

- 2.1. In fulfilling the role of an effective council that is responsive to the needs of the community and which operates within the legal framework prescribed by the *Local Government Act 1999* (the Act), the Adelaide Hills Council (Council) is fully committed to the principle of open and accountable government.
- 2.2. However, Council also recognises that on a limited number of occasions it may be necessary, in the public interest, to restrict public access to discussion/decisions and/or documents.

3. OBJECTIVES

- 3.1. The objectives of the Code of Practice for Access to Council and Council Committee¹ and Designated Informal Gathering² Meetings & Documents (Code) are:
 - Clearly outline to the community for what purpose and on what basis Council may apply the provisions of the Act to restrict public access to meetings or documents;
 - Provide information on Council's code of practice to the community; and
 - Summarise the legal position relating to public access to Council and Council Committee meetings and documents.

~~4. COMMUNITY INVOLVEMENT IN THE DEVELOPMENT OF THE CODE~~

- ~~4.1. In preparing this Code of Practice for adoption, and prior to alteration or substitution of a Code, the Council must make copies available for inspection or purchase at the principal office and follow the relevant process set out in its public consultation policy.~~

5.4. PUBLIC ACCESS TO THE AGENDA FOR COUNCIL AND COUNCIL COMMITTEE MEETINGS

- 5.1.4.1. At least three (3) clear days³ before the Council or Council Committee meeting (unless it is a special meeting⁴) the Chief Executive Officer (CEO) must give written notice of the meeting to all Council/Committee Members setting out the date, time and place of the meeting. . Where possible, the CEO will endeavour to have notices available in advance of the above timeframe.

- 5.2.4.2. ~~Subject to clause 4.9 the~~The notice of meeting and agenda will be placed on public display at each office of the Council that is open to the public for the general administration of Council business and on Council's website www.ahc.sa.gov.au.

¹ Council Committee means a committee established under Section 41 of the *Local Government Act 1999*. For clarity it does not include the Council Assessment Panel created under Sections 82 & 83 of the *Planning Development and Infrastructure Act 2016*.

² Designated Informal Gathering as defined in Regulation 8AB(2) of the *Local Government (General) Regulations 2013* is an event organised and conducted by or on behalf of the Council or Chief Executive Officer (CEO) to which Members of the Council or Council Committee (as the case may be) have been invited and that involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the Council or Council Committee

³ 'clear days' means that the time between the giving of the notice and the day of the meeting, but excluding both the day on which the notice was given and the day of the meeting, e.g. notice is given on a Thursday for a following Monday meeting, the clear days are Friday, Saturday and Sunday.

⁴ Special meetings under s83(2) of the *Local Government Act 1999* require at least four (4) hours' notice.

~~5.3.4.3.~~ Items listed on the agenda will be described accurately and in reasonable detail.

~~5.4.4.4.~~ Subject to clause 4.9 theThe notice and agenda will be kept on public display and continue to be published on the website until the completion of the relevant Council or Council Committee meeting.

~~5.5.4.5.~~ Subject to clause 4.10 the eElectronic and/or paper copies of the agenda documents and non-confidential reports that are to be considered at the meeting will be made available to members of the public both prior to and at the meeting.

~~5.6.4.6.~~ Members of the public may obtain a paper copy of the agenda and any particular reports for a fee to cover the costs of photocopying, in accordance with a Council's schedule of fees and charges.

~~5.7.4.7.~~ Where the CEO (after consultation with the principal member, or in the case of a Committee - the presiding member) believes that a document or report on a particular matter should be considered in confidence with the public to be excluded, the basis under which the order could be made in accordance with section 90(3) of the Act will be specified. [see sections 83(5) (Council) and 87(10) (Committee) of the Act.]

4.8. The above provisions apply to Council, Council Committees that have as part of their responsibility some regulatory activities and those other committees to which Council has determined these procedures will apply⁵. Where a Council Committee is not performing a regulatory activity these procedures may be varied, e.g. notice may be given in a form decided by the committee, and need not be given for each meeting separately. Public notice may be given at a place determined by the CEO taking into account the nature and purpose of the Committee.

4.9. For the period of the operation of Notice No 1, the requirement that the CEO give notice to the public of the times and places of council meetings by placing the notice of meeting and agenda on public display at each office of the Council that is open to the public for the general administration of Council business within its area is **suspended**.

4.10. For the period of the operation of Notice No 1:

4.10.1. the requirement that the CEO must ensure that a reasonable number of copies of any document or report supplied to members of the Council for consideration at a meeting of the Council are available for inspection by members of the public at the principal office of the Council or at the meeting is **suspended**.

4.10.2. the CEO (or a person nominated in writing by the CEO) will ensure that any document or report supplied to members of the Council for consideration at a meeting of the Council is available for inspection by members of the public –

⁵ Council's Code of Practice for Meeting procedures sets out the Council Committees to which clause 5 applies.

4.10.2.1. in the case of a document or report supplied to members of the Council before the meeting - on a website determined by the CEO as soon as practicable after the time when the document or report is supplied to members of the Council; or

4.10.2.2. in the case of a document or report supplied to members of the Council at the meeting - on a website determined by the CEO as soon as practicable after the time when the document or report is supplied to members of the Council.

5.8.4.10.2.3. The website to be used will be the Council website ahc.sa.gov.au.

6.5. PUBLIC ACCESS TO THE AGENDA FOR DESIGNATED INFORMAL GATHERINGS⁶

6.1.5.1. Not less than three (3) clear days prior to a designated informal gathering the CEO will make every reasonable effort that the following information will be published on the Council's website:

- the place, date and time at which the designated informal gathering or discussion will be held;
- the matter that is to be discussed at the designated informal gathering or discussion;
- whether or not the designated informal gathering or discussion is to be held at a place open to the public.

6.2.5.2. Agenda documents will not be published on the website or generally made available to the public (see clause 15 regarding Access to Documents).

5.3. Where a confidential informal discussion declaration applies to a designated informal gathering or discussion (see clause 9), the reason for the designated informal gathering or discussion being held entirely or partially in confidence must be published on the Council's website.

7.6. PUBLIC ACCESS TO MEETINGS

7.1.6.1. Council, Council Committee and Designated Informal Gathering meetings are open to the public and attendance is encouraged, except where the Council, the Council Committee or in the case of a Designated Informal Gathering, the Council or CEO, believes it is necessary in the public interest to exclude the public from the discussion (and, if necessary, decision⁷) of a particular matter.

7.2.6.2. The public will only be excluded when considered proper and necessary (i.e. the need for confidentiality outweighs the principle of open decision-making). The following is an example:

Council is intending to bid at an auction to acquire land and would not want others involved, such as the vendor to have prior knowledge of what

⁶ Further details of the provisions applying to Designated Informal Gatherings, are contained in Council's *Informal Council and Council Committee Informal Gatherings and Discussions Policy* available at ahc.sa.gov.au

⁷ Designated Informal Gatherings do not make decisions on any matter that is, or is intended to be, part of the agenda for a formal meeting of the Council or Council Committee

Council was setting as an upper limit to bid at the auction, as to do so would prejudice the position of Council and disadvantage the community.

7.3-6.3. Council encourages public attendance at meetings of the Council, Committees and Designated Informal Gatherings through public notification of meetings in the Council, Committee and Designated Informal Gatherings Meetings Schedule, located on Council's website.

6.4. Council has adopted the *Informal Council and Council Committee Gatherings and Discussions Policy* which provides information on the manner in which the provisions in Section 90 relating to informal gatherings and designated informal gatherings will be managed.

6.5. Notice No 1 provides that a Council meeting and a designated informal gathering will be taken to be conducted in a place open to the public even if one or more Council members participate in the meeting by electronic means provided that –

6.5.1.the CEO (or a person nominated in writing by the CEO) makes available to the public a live stream⁸ of the meeting on a website determined by the chief executive officer and ensures that members of the public can hear the discussion between all Council members present at the meeting via the live stream; or

6.5.2.if the CEO (or a person nominated in writing by the CEO) has taken reasonable steps to make available a live stream of the meeting but is unable to make available a live stream of the meeting, the CEO (or a person nominated in writing by the CEO) makes available to the public a recording of the meeting as soon as practicable after the meeting on a website determined by the CEO and ensures that members of the public can hear the discussion between all Council members present at the meeting via the recording.

7.4-6.6. If the CEO (or a person nominated in writing by the CEO) has taken reasonable steps to make available to the public a live stream of the meeting or,(if unable to make available a live stream of the meeting) a recording of the meeting but is unable to comply the CEO (or a person nominated in writing by the CEO) must publish on a website determined by the chief executive officer the steps taken to comply.

8.7. PROCESS TO EXCLUDE THE PUBLIC FROM A COUNCIL OR COUNCIL COMMITTEE MEETING

8.1-7.1. Before a Council or Council Committee meeting orders that the public be excluded to enable the receipt, discussion and consideration of a particular matter, the meeting must, in public, formally determine if this is necessary and appropriate, and then pass a resolution to exclude the public while dealing with that particular matter.

7.2. If this occurs then the public must leave the room. This means that all members of the public (including staff), unless exempted by being named in the resolution as entitled to remain, are required to leave the room. For the operation of

⁸ live stream means the transmission of audio and/or video from a meeting at the time that the meeting is occurring;

section 90(2) a member of the public does not include a Member of Council/Committee.

~~8.2.7.3.~~ Notice No 1 provides that the Council or Council Committee must disconnect any live stream or recording of a meeting for the period that the meeting is closed to the public pursuant to an order made under section 90(2).

7.4. Once Council or a Council Committee has made the order, it is an offence for a person, who knowing that an order is in force, enters or remains in a room in which such a meeting is being held. It is lawful for an employee of Council or a member of the police to use reasonable force to remove the person from the room if he or she fails to leave on request.

~~8.3.7.5.~~ Further, Notice 1 provides that it is also an offence for person who, knowing that an order is in force under section 90(2), to connect⁹ to a meeting of the Council or Council committee by electronic means, or fail to disconnect¹⁰ from a meeting of the Council or Council committee.

~~8.4.7.6.~~ Once discussion on that particular matter is concluded, the public are then permitted to re-enter or reconnect to the meeting. If there is a further matter that needs to be considered in confidence it is necessary to again undertake the formal determination process and to resolve to exclude the public as above.

~~8.5.7.7.~~ Please note that the Council, or the Council Committee, can by inclusion within the resolution permit a particular person or persons to remain in the meeting. An example would be allowing a ratepayer who is suffering personal hardship to remain in the meeting when their circumstances concerning the payment of rates are being discussed.

~~8.6.7.8.~~ Council's practice is that, for the convenience of the public present at a meeting, where it is resolved to consider a matter in confidence, that the matter (unless there are pressing reasons as to why it should be debated at that point of the meeting) may be deferred until all other business has been dealt with. This is the preferred option of Council rather than asking the public to leave the room and wait for however long it takes until the matter is concluded and then invite them back to the meeting room with the possibility of the same process being repeated for a subsequent matter.

~~9.8.~~ **PROCESS TO EXCLUDE THE PUBLIC FROM A DESIGNATED INFORMAL GATHERING¹¹**

~~9.1.8.1.~~ The Council or CEO may, on a case-by-case basis, declare a designated informal gathering or discussion to be a 'confidential informal discussion' where the designated informal gathering or discussion is either:

- (i) a planning session of a general or strategic nature; or
- (ii) is a briefing session relating to information or a matter of a confidential nature within the ambit of section 90(3) of the Local Government Act [see clause 10 below for the provisions of s90(3)].

⁹ connect means able to hear and/or see the meeting, including via a live stream or recording of the meeting

¹⁰ disconnect means remove the connection so as to be unable to hear and see the meeting

¹¹ Further details of the provisions applying to Designated Informal Gatherings, are contained in Council's *Informal Council and Council Committee Informal Gatherings and Discussions Policy* available at ahc.sa.gov.au

~~9.2.8.2.~~ If a designated informal gathering or discussion has been declared to be a 'confidential informal discussion', then the designated informal gathering or discussion may be attended by Council Members, the CEO and any other person invited to attend by the Council or the CEO.

~~9.3.8.3.~~ If a confidential informal discussion declaration has been made in respect of only some of the matters to be discussed at a designated informal gathering or discussion, then these confidential matters will normally be scheduled to be discussed at the end of the agenda for the designated informal gathering or discussion. The designated informal gathering or discussion will be open to the public until immediately prior to the discussion on confidential matters commencing and post the discussion, as applicable.

~~10.9.~~ **MATTERS FROM WHICH THE PUBLIC CAN BE EXCLUDED**

~~10.1.9.1.~~ In accordance with the requirements of section 90(3) of the Act, Council, or a Council Committee, may order that the public be excluded in the following circumstances:

- (a) *information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);*
- (b) *information the disclosure of which—*
 - (i) *could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council; and*
 - (ii) *would, on balance, be contrary to the public interest;*
- (c) *information the disclosure of which would reveal a trade secret;*
- (d) *commercial information of a confidential nature (not being a trade secret) the disclosure of which—*
 - (i) *could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and*
 - (ii) *would, on balance, be contrary to the public interest;*
- (e) *matters affecting the security of the Council, members or employees of the Council, or Council property, or the safety of any person;*
- (f) *information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;*
- (g) *matters that must be considered in confidence in order to ensure that the Council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;*

- (h) *legal advice;*
- (i) *information relating to actual litigation, or litigation that the Council or Council committee believes on reasonable grounds will take place, involving the Council or an employee of the Council;*
- (j) *information the disclosure of which—*
 - (i) *would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council); and*
 - (ii) *would, on balance, be contrary to the public interest;*
- (k) *tenders for the supply of goods, the provision of services or the carrying out of works;*
- (l) *information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Plan Amendment Report relating to the amendment is released for public consultation under that Act; or*
- (m) *information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Development Plan Amendment proposal relating to the amendment is released for public consultation under that Act;*
- (n) *information relevant to the review of a determination of a Council under the Freedom of Information Act 1991.*

10.2.9.2. The Act provides for a definition of “personal affairs”, being a person’s financial affairs, criminal records, marital or other personal relationships, personal qualities, attributes or health status, or that person’s employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person, but does not include the personal affairs of a body corporate.

10.3.9.3. In some sections under section 90(3) of the Act a public interest balancing test must be satisfied for the ground of exclusion to apply. The “*public interest balancing test*” applies to sections:

- 90(3)(b)(ii) – ‘commercial advantage’;
- 90(3)(d)(ii) – ‘commercial information’; and
- 90(3)(j)(ii) – ‘information provided on a confidential basis’.

This test requires that public interest reasons for closing a meeting to the public must outweigh the general requirements for meetings to be held in public. This requirement to satisfy a public interest test is mirrored in certain provisions of the *Freedom of Information Act 1999* (SA) (“the FOI Act”).

10.4.9.4. In considering whether an order should be made under section 90(2), it is irrelevant that discussion of a matter in public may:

- cause embarrassment to the Council or Committee concerned, or to members or employees of the Council; or
- cause a loss of confidence in the Council or Committee. [s.90(4)]

~~10.5.9.5.~~ If a decision to exclude the public is taken, the Council or the Council Committee is required to make a note in the minutes of the making of the order and the grounds on which it was made. Sufficient detail of the grounds on which the order was made will be included in the minutes.

~~11.10.~~USE OF THE CONFIDENTIALITY PROVISIONS

~~11.1.10.1.~~ Any consideration of the use of the confidentiality provisions to exclude the public from the discussion of a particular matter at a meeting will require the identification of one or more of the grounds listed within section 90(3) of the Act and the factual reasons for the relevance and application of the ground(s) in the circumstances. These are listed in paragraph 10.1 of this Code.

~~11.2.10.2.~~ In relation to Council and Council Committee meetings, Council's policy approach is as follows:

~~11.2.1.10.2.1.~~ The principle of open and accountable government is strongly supported;

~~11.2.2.10.2.2.~~ Information of the grounds on which an order to exclude the public is made will be conveyed to the public at the time of them being ordered to leave the meeting – the public will not be excluded until after a confidentiality motion has been debated and passed and sufficient reasons for the need to exclude the public given;

~~11.2.3.10.2.3.~~ Once discussion of the matter is concluded, the meeting will then consider if it is necessary to make an order that a document associated with this agenda item (including minutes) remain confidential. In determining this, the meeting will have regard to the provisions of section 91 and in particular section 91(8) which details when a Council or Committee must not order that a document remain confidential;

~~11.2.4.10.2.4.~~ If the meeting determines that it is proper and necessary to keep a document confidential, then a resolution for an order to this effect is required to be resolved by the meeting in accordance with section 91(7) of the Act. When making an order the meeting must specify the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order must be reviewed. ;

~~11.2.5.10.2.5.~~ Once discussion of the matter is concluded and the public have returned, the decision of the meeting in relation to this matter will be made publicly known unless the Council or Committee has resolved to order that some information remain confidential. Details relating to any order to keep information or a document confidential in accordance with section 91(7) are also to be made known.

~~11.2.6.10.2.6.~~ In all cases the objective is that the information be made publicly available at the earliest possible opportunity and that the community is

informed of any Council or Committee order and the associated implications; and

~~11.2.7.~~10.2.7. Where a person provides information to the Council or Committee and requests that it be kept confidential, Council or Committee is not able to even consider this request unless the matter is one that falls within section 90(3). If this is the case, Council or Committee will then be in a position to consider the request on its merits.

~~11.3.~~10.3. There is no legal requirement to resolve to “come out of confidence” or to go back into “public session”. The public may and should be invited to re-enter the meeting when consideration of the relevant Agenda Item has concluded. The public are also entitled to be present for the debate on whether any subsequent item should be considered in confidence.

~~11.4.~~10.4. The Council or Committee will not consider a number of agenda items “in confidence” together (i.e. en bloc). It will determine each item separately and consider the exemptions relevant to each item.

~~12.11.~~12.11. **EXAMPLE CONFIDENTIALITY PROVISIONS**

~~12.1.11.1.~~11.1.1. The Council will record in the minutes of any Council or Council Committee meetings the making of an order in accordance with sections 90(2) and (3) and section 91(7) as follows:

Example: If Council were considering the terms for a waste resources contract.

A Section 90(3)(b) order would be made before Council went into confidence such as:

Pursuant to section 90(2) of the Local Government Act 1999 the Council orders that all members of the public, except Joe Bloggs, CEO of ABC Council and Ivana Citizen, lawyer, XYZ Lawyers, be excluded from attendance at the meeting for Agenda Item 10.1 (Terms of Waste Resources Contract).

The Council is satisfied that, pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is proposing to conduct business, and the information would prejudice the commercial position of the Council, in that the Council is currently engaged in a post tender negotiation with a preferred tenderer to finalise the terms and conditions of engagement for this service – the information to be considered in relation to this Agenda Item include detailed costings for in-house provision of waste resources services and other specific financial information, the disclosure of which would prejudice the Council’s commercial position during the current ongoing negotiations.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the

meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other contract negotiations.

If the Council resolved for the report containing the commercial information to remain in confidence, a Section 91(7) would be made at the conclusion of considering the item, such as:

That having considered Agenda Item 10.1 (Terms of Waste Resources Contract) in confidence under section 90(2) and (3)(b) of the Local Government Act 1999, the Council, pursuant to section 91(7) of that Act orders that the Tender documents and related Council reports and all minutes be retained in confidence for a period of 2 years, or until a contract has been signed.

13.12. REVIEW OF CONFIDENTIALITY ORDERS

13.1.12.1. A confidentiality order made under section 91(7) of the Act must specify the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order must be reviewed.

13.2.12.2. An order will lapse if the time or event specified has been reached or carried out. There is no need for the Council to resolve for the confidentiality order to be lifted. Once the order has lapsed, the minutes and/or documents automatically become public.

Orders that exceed 12 months must be reviewed annually and the Council must assess whether the grounds for non-disclosure are still relevant and, if so, provide the relevant grounds and reasons for the minutes and/or documents remaining confidential.

13.3.12.3. The conduct of the annual review can be delegated to the Chief Executive Office and sub-delegated to an employee of the Council if appropriate.

13.4.12.4. If there are any items that require a fresh confidentiality order because the original order is about to expire, then the reviewer will prepare a report to Council making recommendations with respect to each item to be retained in confidence.

13.5.12.5. Each item must then be addressed separately and assessed against section 90(3) and section 91(7) of the Act.

13.6.12.6. While a Council may delegate the power to undertake an annual review, the Council cannot delegate the power to apply sections 90(3) and 91(7) of the Act.

~~13.7.12.7.~~ A Council may resolve to exclude the public from a meeting to discuss and undertake consideration of the recommendations arising from the annual review in confidence, subject to the application of the relevant ground under section 90(3) of the Act. Section 90(3) of the Act must be applied separately to each item and not en bloc.

~~13.8.12.8.~~ If there is no longer any need for the confidentiality order then the Council or Council Committee may delegate to an employee of the Council the power to revoke an order made in accordance with section 91(7) of the Act. The Council or Council Committee may also include in the resolution whether any delegation is given to an employee to revoke the order and if relevant, any conditions associated with the delegation.

~~14.13.~~ PUBLIC ACCESS TO MINUTES

~~13.1.~~ Minutes of a meeting of Council or a Council Committee will be publicly available, within 5 days after the meeting, ~~at each office of the Council that is open to the public for the general administration of Council business, and on Council's website www.ahc.sa.gov.au.~~

~~14.1.13.2.~~ ~~Notice No 1 provides that a copy of the minutes of a meeting of the Council must be placed on public display on a website determined by the chief executive officer within five days after the meeting and kept on display for a period of one month.~~

~~14.2.13.3.~~ Formal minutes are not recorded at designated informal gatherings. While notes may be taken at these gatherings, they will not be published on the website or made available to the public unless otherwise provided for in Council policy (see clause 15 regarding Public Access to Documents).

~~15.14.~~ PUBLIC ACCESS TO DOCUMENTS

~~15.1.14.1.~~ Various documents can be available for inspection and purchase (for a fee) by the public. Council may also make a document available in electronic form and place it on the Internet for public access.

~~15.2.14.2.~~ The Council or the Council Committee will only order that a document associated with a discussion from which the public are excluded is to remain confidential if it is considered proper and necessary in the broader community interest (as per the processes described above).

~~15.3.14.3.~~ The Council or the Council Committee can only resolve to keep minutes and/or documents confidential under section 91(7) if they were considered in confidence pursuant to sections 90(2) and 90(3).

~~15.4.14.4.~~ In accordance with section 91(8) the Council or the Council Committee must not make an order to prevent:

- the disclosure of the remuneration or conditions of service of an employee of the Council after the remuneration or conditions have been set or determined; or

- the disclosure of the identity of a successful tenderer for the supply of goods or the provision of services (including the carrying out of works), or of any reasons adopted by the Council as to why a successful tenderer has been selected; or
- the disclosure of the amount or amounts payable by the Council under a contract for the supply of goods or the provision of services (including the carrying out of works) to, or for the benefit of, the Council after the contract has been entered into by all parties to the contract; or
- the disclosure of the identity of land that has been acquired or disposed of by the Council, or of any reasons adopted by the Council as to why land has been acquired or disposed of by the Council.

~~15.5.14.5.~~ Where keeping a document confidential is considered proper and necessary, a resolution to this effect is required which shall include:

- the grounds for confidentiality; and
- the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order must be reviewed – if the order has a duration of more than 12 months, the order must be reviewed at least once in every year; and
- (if applicable) whether the power to revoke the order will be delegated to an employee of the Council. [s.91(9)]

~~15.6.14.6.~~ Requests to access Council and Council Committee documents can be made under the *Freedom of Information Act 1991*.

~~15.6.1.14.6.1.~~ Freedom of Information applications should be submitted using the correct application form and be as specific as possible to enable the correct documents to be identified.

~~15.6.2.14.6.2.~~ Application forms are available from at each office of the Council that is open to the public for the general administration of Council business or on the State Records website: www.archives.sa.gov.au, under Freedom of Information, Forms for FOI Process. The application form contains details of the fees payable and fee waivers available.

~~15.6.3.14.6.3.~~ Freedom of Information requests should be addressed to:
Freedom of Information Officer
Adelaide Hills Council
PO Box 44
WOODSIDE SA 5244

~~16.15.~~ ACCOUNTABILITY AND REPORTING TO THE COMMUNITY

~~16.1.15.1.~~ A report on the use of sections 90(2) and 91(7) by the Council and Council Committees must be included in the annual report of Council as required by Schedule 4 of the Act. This supports commitment to the principle of accountability to the community. The reporting should include the following information, separately identified for both Council and Council Committees:

- Number of occasions each of the provisions of sections 90(2) and 90(3) were utilised;
- Number of occasions each of the provisions of sections 90(2) and 90(3) and section 91(7) were utilised, expressed as a percentage of total agenda items considered;
- An indication of any particular issues that contributed to the use of confidentiality provisions on more than one occasion (e.g. a proposal to acquire a parcel of land was considered on 3 separate occasions);
- Number of occasions that information originally declared confidential has subsequently been made publicly available; and
- Number of occasions that information declared confidential has not been made publicly available and the reason for this in each case.

~~16.2.15.2.~~ The Council's Annual Report will include details of informal gatherings held by Council in the preceding financial year, including their purpose, the matters discussed at workshops and professional development/training sessions and whether the public were able to attend¹².

~~17.16.~~ AVAILABILITY OF THE CODE

~~17.1.16.1.~~ This Code is available for inspection ~~at the Council's Offices during ordinary business hours and~~ via the Council's website www.ahc.sa.gov.au. Paper copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

~~18.17.~~ REVIEW OF THE CODE

~~18.1.17.1.~~ Council is required to review this Code within 12 months after the conclusion of each periodic election, therefore the next mandated review is due to occur in November 2023. However, Council has the ability to review this Code at any time if considered desirable.

~~19.18.~~ GRIEVANCE

~~19.1.18.1.~~ Council has established procedures for the review of decisions under section 270 of the Act for:

- Council, and its Committees;
- employees of the Council; and
- other persons acting on behalf of the Council.

~~19.2.18.2.~~ Should a person be aggrieved about public access to either a meeting or a document then they can lodge an application for review of that decision under the procedures established by Council. The Procedures are available in Council's

¹² Further details of the provisions applying to Designated Informal Gatherings, are contained in Council's *Informal Council and Council Committee Informal Gatherings and Discussions Policy* available at ahc.sa.gov.au

Internal Review of Council Decisions Policy which is available at Council's Service and Community Centres or on Council's website www.ahc.sa.gov.au.

| **20.19.DELEGATION**

| ~~20.1.19.1.~~ The CEO has the delegation to:

| ~~20.1.1.19.1.1.~~ Approve, amend and review any procedures that shall be consistent with this Code.

| ~~20.1.2.19.1.2.~~ Make any formatting, nomenclature or other minor changes to the Code during the period of its currency.

Appendix 5

*Draft Informal Council and Council Committee
Gatherings and Discussions Policy – April 2020*

COUNCIL POLICY

 <p>Adelaide Hills COUNCIL</p>	<h2 style="margin: 0;">INFORMAL COUNCIL AND COUNCIL COMMITTEE GATHERINGS AND DISCUSSIONS</h2>
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Policy Number:	GOV-12
Responsible Department(s):	Governance & Performance
Relevant Delegations:	<u>As per the delegations schedule and as included in this CodeNil</u>
Other Relevant Policies:	<i>Council Member Conduct Policy Code of Practice for Access to Council, Council Committee and Designated Informal Gathering Meetings & Documents Code of Practice for Council Meeting Procedures</i>
Relevant Procedure(s):	Nil
Relevant Legislation:	<i>Local Government Act 1999 Local Government (General) Regulations 2013 Local Government (Procedures at Meetings) Regulations 2013 <u>Electronic Participation in Council Meetings Notice (No 1) 2020</u></i>
Policies and Procedures Superseded by this policy on its Adoption:	Informal Council Gatherings Policy, Item 14.12, 125 – 28/6/16
Adoption Authority:	<u>Strategic Planning & Development Policy CommitteeCouncil</u>
Date of Adoption:	8 November 2016 – full Policy 23 April 2019 – amendment to clause 8.1 only
Effective From:	22 November 2016
Minute Reference for Adoption:	Item 12.2, 53
Next Review:	No later than November 2019 <u>April 2023</u> or as required by legislation.

Version Control

<u>Version No.</u>	<u>Date of Effect</u>	<u>Description of Change(s)</u>	<u>Approval</u>
<u>1.1</u>	<u>23/4/2019</u>	<u>Amendment to clause 8.1 to clarify information publishing timeframe</u>	<u>Council - Res 75/19</u>
<u>1.2a</u>	<u>To be updated administratively</u>	<u>Amendments to provide consistency with <i>Electronic Participation in Council Meetings Notice (No 1) 2020</i></u>	<u>To be updated administratively</u>

INFORMAL COUNCIL AND COUNCIL COMMITTEE GATHERINGS AND DISCUSSIONS

1. INTRODUCTION

- 1.1 Informal gatherings provide a valuable opportunity to enhance Council decision-making processes by providing opportunities for Council Members to become better informed on issues and seek further clarification. Informal gatherings, however, should not be used, or be seen to be used, as a replacement for full debate and decision-making at Council meetings or Council Committee meetings. Open and transparent Council meetings and Council Committee meetings underpin representative democracy and ensure public confidence in Council's decision-making processes.
- 1.2 On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the South Australian Public Health Act 2011, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.
- 1.3 On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the Emergency Management Act 2004, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.
- 1.4 On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the Local Government Act 1999 (Notice No 1) varying or suspending the operation of the specified provisions of the Local Government Act 1999 as set out in Schedule 1 to Notice No 1. Notice No 1 commenced operation on 31 March 2020.
- 1.5 For the period Notice No 1 has effect (as provided for in Notice No 1), this Informal Gatherings Policy is altered as set out below and those alterations have effect notwithstanding any other provision in this Informal Gatherings Policy to the contrary.
- 1.6 The alterations to this Policy are made consistent with Notice No 1 and the Council's Code of Practice for Access to Meetings and Code of Practice for Meeting Procedures.
- 1.7 For the avoidance of doubt, save for the alterations to the Informal Gatherings Policy as set out below, this Informal Gatherings Policy otherwise applies to all informal gatherings of the Council.

2. POLICY OBJECTIVE

- 2.1 The policy aims to ensure that the statutory requirements for openness and transparency in Council decision-making are observed; while providing an

opportunity for confidential discussions among Council member where this is warranted by the nature of the gathering or subject matter to be discussed.

3. DEFINITIONS

3.1 ***“Designated informal gathering or discussion”*** is an event organised and conducted by or on behalf of the Council or Chief Executive Officer (CEO) to which Members of the Council or Council Committee (as the case may be) have been invited and that involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the Council or Council Committee. (Regulation 8AB(2), *Local Government (General) Regulations 2013*)

~~3.1.2~~ 3.1.2 ***“Electronic means”*** includes a telephone, computer or other electronic device used for communication.

4. ATTENDANCE AT INFORMAL GATHERINGS

4.1 Members of the Council may participate in an informal gathering of the Council by electronic means.

4.2 A member of the Council participating in an informal gathering by electronic means is taken to be present at the informal gathering provided that the member:

4.2.1 can hear all other members present at the informal gathering; and

4.2.2 can be heard by all other members present at the informal gathering.

5 FORM OF PARTICIPATION BY ELECTRONIC MEANSWhere:

5.1.1 a Council member is to participate in an informal gathering by electronic means; and

5.1.2 the electronic means has the functionality to allow the Council member to participate in the informal gathering by being heard but not seen or by being both seen and heard; and

5.1.3 the electronic means of the Council has the functionality to allow the council member to be heard but not seen or to be both seen and heard,

the member must participate by being both seen and heard.

6 PUBLIC ACCESS TO DESIGNATED INFORMAL GATHERINGSDuring the period within which Notice No. 1 applies, public access to designated informal gatherings may be provided in accordance with Sections 90(1a) and 90(1b) of the *Local Government Act 1999* however, as outlined in this Policy, minutes will not be recorded.

7 SCOPE This policy applies to informal gatherings of the Council or a Council Committee, including designated informal gatherings or discussions.

4.27.2 An informal gathering which does not involve discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the Council or Council Committee, is not a 'designated informal gathering or discussion'.

8 INFORMAL GATHERINGS OR DISCUSSIONS Purpose

8.1.1 Section 90(8) of the *Local Government Act 1999* (the Act) allows informal gatherings or discussions to be held provided that the gathering or discussion does not obtain, or effectively obtain, a decision on a matter outside a formally constituted meeting of the Council or Council Committee.

8.1.2 The Act sets out the following examples of informal gatherings or discussions:

- planning sessions associated with the development of policies or strategies
- briefing or training sessions
- workshops
- social gatherings to encourage informal communication between Members or between Members and staff.

8.1.3 Informal gatherings of Council Members or Council Committee Members (either with or without Council staff) are, by their nature, non-compulsory. However, all Council Members and Council Committee Members are encouraged to attend relevant informal gatherings, particularly where the informal gathering or discussion is intended to provide history, context or additional information to Council Members or Council Committee Members.

8.1.4 Informal gatherings or discussions will be chaired by the CEO or another senior Council officer. The Chair is responsible for ensuring that the purpose, intent and outcomes of the designated informal gatherings or discussions are consistent with section 90 of the Local Government Act.

8.2 Administration

8.2.1 A schedule of specific informal gatherings, (i.e. workshops and professional development/training sessions), is decided by Council. Generally workshops (which include briefings) and professional development sessions are each held on a monthly basis unless there is conflict with stipulated dates for Council or Committee meetings.

8.2.2 Other informal gatherings, including social gatherings, will be held as required by determination of the CEO.

- 8.2.3 A schedule of planned workshop and professional development sessions will be published on Council's website. Ordinary Council meeting agendas also will provide the dates/venues of the following three months workshops and professional development sessions together with Council and s41 Committee meetings and Community Forums
- 8.2.4 With the exception of social gatherings or events and activities arranged by the CEO to encourage informal communication between Council Members or between Council and Committee Members and Council employees, the following provisions will apply:
- (a) A record of the persons invited to attend and informal gathering and those persons present at the informal gathering will be maintained by Council Administration
 - (b) An outline of topics and activities will be prepared for each informal gathering and the CEO will aim to circulate the outline to the invitees to provide reasonable notice for preparation, particularly where there is pre-reading recommended.
 - (c) Informal gatherings or discussions are not subject to the procedural meeting requirements of the Act and *Local Government (Proceedings at Meetings) Regulations 2013*.
 - (d) The Council's Annual Report will include details of informal gatherings held by Council in the preceding financial year, including their purpose, the matters discussed at workshops and professional development/training sessions and whether the public were able to attend

9 PURPOSE OF DESIGNATED INFORMAL GATHERINGS OR DISCUSSIONS Designated informal gatherings or discussions may be used to:

- discuss issues that involve strategy or policy or other matters of Council administration
- brief Council Members or Council Committee Members on issues relating to their functions.

~~8.29.2~~ Designated informal gatherings and discussions will be used solely for the purpose of information sharing and not for the purpose of determining, or effectively determining, matters which should be determined at a formally constituted meeting of the Council or Council Committee.

~~8.39.3~~ Both the CEO and the Council are responsible for ensuring designated informal gatherings or discussions are conducted in accordance with the Act.

~~8.49.4~~ Formal minutes will not be recorded of a designated informal gathering or discussion. Notes of a designated informal gathering or discussion may be tabled at the Council meeting following the designated informal gathering or discussion.

10 PURPOSE OF DESIGNATED INFORMAL GATHERINGS OR DISCUSSIONS TO BE OPEN TO THE PUBLIC, EXCEPT IN SPECIAL CIRCUMSTANCES Designated informal gatherings or discussions will be held at a place open to the public, except where the designated informal gathering or discussion has been declared by the Council or Chief Executive Officer to be a 'confidential informal discussion'.

~~9.2~~10.2 The Council or CEO may, on a case-by-case basis, declare a designated informal gathering or discussion to be a 'confidential informal discussion' where the designated informal gathering or discussion is either:

- (i) a planning session of a general or strategic nature; or
- (ii) is a briefing session relating to information or a matter of a confidential nature within the ambit of section 90(3) of the Local Government Act (see Appendix 1).

~~9.3~~10.3 If a designated informal gathering or discussion has been declared to be a 'confidential informal discussion', then the designated informal gathering or discussion may be attended by Council Members, the CEO and any other person invited to attend by the Council or the CEO.

~~9.4~~10.4 If a confidential informal discussion declaration has been made in respect of only some of the matters to be discussed at a designated informal gathering or discussion, then these confidential matters will be scheduled to be discussed at the end of the agenda for the designated informal gathering or discussion. The designated informal gathering or discussion will be open to the public until immediately prior to the discussion on confidential matters commencing.

~~9.5~~10.5 An informal gathering or discussion of the Council or a Council Committee which is not a designated gathering or discussion will not be open to the public, unless otherwise determined by the Council or CEO.

11 PUBLICATION OF INFORMATION RELATING TO DESIGNATED INFORMAL GATHERINGS OR DISCUSSIONS Not less than three (3) clear days prior to a designated informal gathering the CEO will make every reasonable effort that the following information will be published on the Council's website:

- (i) the place, date and time at which the designated informal gathering or discussion will be held;
- (ii) the matter that is to be discussed at the designated informal gathering or discussion;
- (iii) whether or not the designated informal gathering or discussion is to be held at a place open to the public.

11.2 Where a confidential informal discussion declaration applies to a designated informal gathering or discussion, the reason for the designated informal gathering or discussion being held entirely or partially in confidence must be published on the Council's website.

12 DELEGATION The CEO has the delegation to approve, amend and review any procedures that shall be consistent with this Policy.

~~12.1~~12.2 Make any formatting, nomenclature or other minor changes to the Policy during the period of its currency.

~~6~~ **AVAILABILITY OF THE POLICY**

~~10.1~~ This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website www.ahc.sa.gov.au. Copies will also

~~be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.~~

Appendix 1

Information and matters within the ambit of section 90(3), Local Government Act

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- (b) information the disclosure of which:
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council; and
 - (ii) would, on balance, be contrary to the public interest;
- (c) information the disclosure of which would reveal a trade secret;
- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which:
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;
- (e) matters affecting the security of the Council, Members or employees of the Council, or Council property, or the safety of any person;
- (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- (g) matters that must be considered in confidence in order to ensure that the Council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (h) legal advice;
- (i) information relating to actual litigation, or litigation that the Council or Council Committee believes on reasonable grounds will take place, involving the Council or an employee of the Council;
- (j) information the disclosure of which:
 - (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council); and
 - (ii) would, on balance, be contrary to the public interest;
- (k) tenders for the supply of goods, the provision of services or the carrying out of works;
- (l) information relating to a proposed amendment to a Development Plan under the *Development Act 1993* before a Development Plan Amendment proposal relating to the amendment is released for public consultation under that Act;
- (m) information relevant to the review of a determination of a Council under the *Freedom of Information Act 1991*.

**ADELAIDE HILLS COUNCIL
SPECIAL COUNCIL MEETING
Tuesday 21 April 2020
AGENDA BUSINESS ITEM**

Item: 6.2

Responsible Officer: Steven Watson
Governance & Risk Coordinator
Office of the Chief Executive

Subject: Public Access and Public Consultation (Notice 2/2020) –
proposed compliance arrangements

For: Decision

SUMMARY

The current public health and major emergency related to COVID-19 has impacted all of us. The Adelaide Hills Council is no different and because of the current public health and major emergency, it is necessary for Council to consider changes to the way in which it conducts its business.

This report is for Council to consider changes to Public Access and Public Consultation in accordance with *Notice (No 2) 2020* made by the Minister for Transport Infrastructure and Local Government, the Hon. Stephan Knoll on 8 April 2020.

RECOMMENDATION

Decision 1

Council resolves the report be received and noted

Decision 2

1. Pursuant to Section 45(2) of the *Local Government Act 1999*, as substituted under the *Public Access and Public Consultation Notice (No 2) 2020*, being satisfied that it is reasonably necessary as a result of the public health emergency declared by the Chief Executive of the Department for Health and Wellbeing on 15 March 2020 (and the related major emergency declared under the *Emergency Management Act 2004* on 22 March 2020 and extended on 2 April 2020), the Council, for the period the *Public Access and Public Consultation Notice (No 2) 2020* has effect to close the Principal Office and all other Satellite Offices of the Council to public access effective from 21 April 2020.
2. The Council makes the following alternative arrangements to enable the local community to access the services of the Council which are ordinarily available at the principal office of the Council:

- a. Council's website – www.ahc.sa.gov.au
 - b. Payments may continue to be made electronically.
 - c. Library services website - https://onecard.network/client/en_AU/adelaidehills/
 - d. Any other matters please email Council via mail@ahc.sa.gov.au , call Customer Service on 08 8408 0400, or contact us - <https://www.ahc.sa.gov.au/contact-us>
3. In relation to any obligation under the *Local Government Act 1999* to make a document available for inspection at the principal office of the Council, the document will be made available for inspection:
- a. Via Councils' website – www.ahc.sa.gov.au
- OR
- b. Email request addressed to the Chief Executive Officer via mail@ahc.sa.gov.au.
4. Pursuant to Section 50(5a) of the *Local Government Act 1999*, as inserted under the *Public Access and Public Consultation Notice (No 2) 2020*, the Council alters its *Public Consultation Policy* by including in the Policy, the *Public Consultation Policy Addendum* as detailed in Appendix 2.

Decision 3

1. That the Council in exercise of the power contained in Section 44 of the *Local Government Act 1999* (the LG Act) hereby delegates this 21st day of April 2020 to the person occupying the office of Chief Executive Officer of the Council the powers and functions under the LG Act, the operation of which has been varied under the *Public Access and Public Consultation Notice (No 2) 2020*, and set out below subject to the conditions and/or limitations, if any, specified herein:
 - 1.1. the power pursuant to Section 45(2) of the LG Act to, if the delegate is satisfied it is reasonably necessary as a result of the public health emergency, to:
 - 1.1.1. close the principal office of the Council; or
 - 1.1.2. vary the transaction of business hours at the principal office of the Council;
 - 1.2. the power pursuant to Section 45(3) of the LG Act if the Council closes its principal office or varies the transaction of business hours in accordance with Section 45(2) of the LG Act, to, as soon as reasonably practicable, take reasonable steps to:
 - 1.2.1. make alternative arrangements to enable the local community to access the services of the Council which are ordinarily available at the principal office of the Council;
 - 1.2.2. inform the Council's local community (including by publishing the information on a website determined by the Chief Executive Officer) about the changes to the arrangements to access those services;

- 1.3. the power pursuant to Section 45(4)(b) of the LG Act to satisfy any obligation under the LG Act to make a document available for inspection at the principal office of the Council by making the document available for inspection at an alternative place or by an alternative means as determined by the delegate;
 - 1.4. the power pursuant to Section 45(5) of the LG Act, if the Council or chief executive officer makes a document available for inspection in accordance with Section 45(4) of the LG Act, to, as soon as reasonably practicable, take reasonable steps to inform the Council's local community (including by publishing the information on a website determined by the chief executive officer) about the changes to the arrangements for inspection of the document;
 - 1.5. the power pursuant to Section 45(10) of the LG Act if the Council makes copies of a document available in accordance with Sections 45(8) or (9) of the LG Act, to, as soon as reasonably practicable, take reasonable steps to inform the Council's local community (including by publishing the information on a website determined by the chief executive officer) about the changes to the arrangements for provision of copies of the document.
 - 1.6. the power pursuant to Section 50(5a) of the LG Act to alter the Council's Public Consultation Policy or substitute a new policy without undertaking public consultation, even if the Council's existing Public Consultation Policy requires the Council to conduct public consultation;
 - 1.7. the power pursuant to Section 123(5) of the LG Act to ensure that copies of the draft annual business plan are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council (including as provided for in Sections 45(4) and 45(9) of the LG Act) and on the website at least 21 days before the end of the period for providing written submissions;
 - 1.8. the power pursuant to Section 151(8) of the LG Act to ensure that copies of the report required under Section 151(5)(d) are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council (including as provided for in Sections 45(4) and 45(9) of the LG Act) at least 21 days before the end of the period for public consultation;
 - 1.9. the power pursuant to Section 156(14e) of the LG Act to ensure that copies of the report required under section 156(14a)(a) of the LG Act are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council (including as provided for in Sections 45(4) and 45(9) of the LG Act) at least 21 days before the end of the period for public consultation.
2. Such powers and functions may be further delegated by the Chief Executive Officer in accordance with Sections 44 and 101 of the LG Act as the Chief Executive Officer sees fit.
 3. These delegations:
 - 3.1. operate and have effect for the period the *Public Access and Public Consultation Notice (No 2) 2020* has effect;
 - 3.2. do not have the effect of revoking or altering any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council;

- 3.3. for the period the *Public Access and Public Consultation Notice (No 2) 2020* has effect, take precedence in the event of any inconsistency between these delegations and any previous delegations made by the Council to the person occupying the office of Chief Executive Officer of the Council prior to the date of the making of these delegations.**
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1. GOVERNANCE

➤ **Strategic Management Plan/Council Policy**

Goal: Organisational Sustainability
Strategy: Governance

A key element of the Governance Strategy within the Strategic Plan is that Council 'is committed to open, participative and transparent decision making and administrative processes'.

The matters addressed herein provide options for the public, albeit in a different manner of service provision.

➤ **Legal Implications**

Council is able to consider changes to Public Access and Public Consultation in accordance with *Notice (No 2) 2020* made by the Minister for Transport Infrastructure and Local Government Stephan Knoll on 8 April 2020.

➤ **Risk Management Implications**

Ensuring the currency of practical and legislatively compliant Public Access and Public Consultation arrangements will assist in mitigating the risk of:

Poor governance practices occur which lead to a loss of stakeholder (i.e. customer and regulator) confidence and/or legislative breaches.

Inherent Risk	Residual Risk	Target Risk
Extreme (5C)	Medium (3D)	Medium (3D)

Note that there are many other controls that assist in mitigating this risk.

➤ **Financial and Resource Implications**

Albeit in a different manner of service provision, the costs and resourcing associated with Public Access and Public Consultation are accommodated for in the annual budget.

➤ **Customer Service and Community/Cultural Implications**

The customer service, community and cultural implications associated with Public Access and Public Consultation are being accommodated by way of alternative service provisions.

➤ **Sustainability Implications**

There are no direct sustainability implications arising from this report.

➤ **Engagement/Consultation conducted in the development of the report**

Consultation on the development of this report was as follows:

Council Committees: Not Applicable

Advisory Groups: Not Applicable

Administration: Director Corporate Services
Executive Manager Governance & Performance
Manager Financial Services
Manager Communications, Events and Engagement
Coordinator Service Strategy & Innovation
Corporate Planning & Performance Coordinator
Executive Assistant - Mayor & CEO

External Agencies: Advice on *Notice (No 2) 2020* has been received from Norman Waterhouse Lawyers, Kelledy Jones Lawyers, the Office of Local Government, the Local Government Association and the LGA Governance & Policy Officers Network.

Community: Not Applicable

2. **BACKGROUND**

The second set of variations to the *Local Government Act 1999 (LG Act)* under the new emergency power in section 302B of the LG Act have now come into operation.

These variations are contained in the *Public Access and Public Consultation Notice (No 2) 2020 (Notice No. 2 as per Appendix 1)* made by the Minister for Transport, Infrastructure and Local Government Stephan Knoll on 8 April 2020.

The variations in Notice No. 2 are in addition to the variations made under the *Electronic Participation in Council Meetings Notice (No 1) 2020* (which is the subject of a separate report in this meeting's agenda).

Two key effects of Notice No. 2 are as follows:

- a. Councils may now close their principal office without any requirement for a notice under the *South Australian Public Health Act 2011 (SAPH Act)* or otherwise vary operating hours without a requirement to undertake public consultation, provided the council considers it reasonably necessary as a result of the public health emergency, and certain requirements detailed in the Notice No.2 are complied with;
- b. Councils are excused from undertaking certain mandatory public meetings in respect of certain types of public consultation.

All variations are temporary and will cease to apply 28 days after all relevant State major emergency declarations end.

3. ANALYSIS

Principal Office

Under the ordinary application of section 45 of the LG Act, members of the public must be able to access the physical premises of a Council's principal office to transact business during hours determined by the Council.

Consistent with LGA guidance material already published, a Council might limit access using an appointment system, provided that a person who walks up to the office from the street during business hours still has some way of making an appointment at short notice. For councils which considered that a complete closure was necessary, the appropriate option was for an order to be issued under section 92 of the SAPH Act.

Notice No. 2 now varies the operation of section 45 of the LG Act such that a council may entirely close the principal office if it is satisfied that this is reasonably necessary as a result of the COVID-19 public health emergency. On top of Work Health and Safety for staff, Social isolation and other directions from various government bodies deem this to be reasonably necessary. Public consultation is not required for this step to be taken.

As an alternative to a complete closure, Notice No. 2 also allows a Council to vary its principal office business hours without public consultation if it is satisfied that this is reasonably necessary as a result of the COVID-19 public health emergency.

Public access to documents

Notice No. 2 also varies the operation of the LG Act so that wherever the LG Act requires a document to be made available for inspection at the principal office, the Council may determine that the document will instead:

- be made available on the council website; and/or
- be made available for inspection at some other location or by some alternative means; and/or
- be provided on request in electronic or hard copy.

This is the case even if the Council has not decided to close its principal office but has only determined to reduce its operating hours. Other variations made by Notice No. 2 also allow the Council to determine that any document which the Council is obliged to provide to any person may be sent to the person on request, in the form requested, upon payment of the appropriate fee (if the LG Act provides a fee is applicable).

If the Council does decide to provide access to a document in one or more of these alternative ways, the Council must inform the local community of these arrangements, including by publishing information on the Council website.

The exception to these alternative access arrangements is the assessment record. The obligation to make the assessment record available for inspection at the principal office is suspended, and there is no requirement that any alternative access arrangement be provided. However, Councils must still provide copies of entries in the assessment record on payment of a fee.

Public Consultation

The LG Act (when unmodified by Notice No. 2) requires councils to hold public meetings as part of its public consultation upon its draft annual business plan and upon various types of changes to Council rating practices.

Notice No. 2 varies the operation of the LG Act so as to remove these requirements for public meetings. However, members of the public must still be able to provide written submissions in the course of all such public consultation.

The (temporary) abolition of these mandatory public meetings will require councils to amend their public consultation policies.

Notice No. 2 varies the operation of section 50 of the LG Act such that Councils may alter their public consultation policies or substitute a new policy, without undertaking public consultation. This is so even if the Council's public consultation policy itself says that public consultation is required in the event of any alteration or substitution of the policy.

As there may be matters which fall outside of that identified and which may require timely adjustment and or decisions, delegations to the Chief Executive Officer are included to prohibit the need for further council reports, especially where matters are likely to be minor in nature.

4. OPTIONS

Council has the following options:

- I. To resolve resolutions 1, 2 and 3 as detailed to prohibit the spread and exposure of COVID19 whilst still undertaking the business of Council, albeit with a differing service provision. (Recommended)
- II. To resolve resolutions 1, 2 and 3 with a variation. (Not Recommended)
- III. To determine an alternative course of action. (Not Recommended)

Should the Council wish to consider resolving a variation or undertaking an alternative course of action, it is recommended that the matter be discussed with the Administration before doing so to ensure legislative compliance and to understand if there are resource implications.

5. APPENDICES

- (1) *Public Access and Public Consultation Notice (No 2) 2020*
- (2) Public Consultation Policy Addendum

Appendix 1

*Public Access and Public Consultation
Notice (No 2) 2020*

SUPPLEMENTARY GAZETTE



**THE SOUTH AUSTRALIAN
GOVERNMENT GAZETTE**

PUBLISHED BY AUTHORITY

ADELAIDE, WEDNESDAY, 8 APRIL 2020

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All instruments appearing in this gazette are to be considered official, and obeyed as such

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SECTION 302B

Public Health Emergency: Public Access and Public Consultation (No 2)

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On the basis that a relevant declaration has been made in relation to a public health emergency and being satisfied that variation or suspension of the provisions specified in Schedule 1 to this notice is reasonably necessary as a result of the emergency, I, **Stephan Karl Knoll, Minister for Transport, Infrastructure and Local Government**, in the State of South Australia, in accordance with section 302B of the *Local Government Act 1999* ("the Act") hereby vary or suspend the operation of the specified provisions of the Act as set out in Schedule 1 to this notice.

1. Citation

This notice may be cited as the *Public Access and Public Consultation Notice (No 2) 2020*.

2. Definitions

In this notice—

Act means the *Local Government Act 1999*.

3. Application

This notice applies to all councils constituted under the Act including, for the avoidance of doubt, the Adelaide City Council.

SCHEDULE 1—PROVISIONS OF THE ACT VARIED OR SUSPENDED (SECTION 302B(1) OF ACT)

Provision of Act	Variation or Suspension
<i>Local Government Act 1999</i>	
Section 45	<p>Delete subsections (2) and (3) and substitute:</p> <p>(2) Subject to subsection (3) and without limiting the operation of any other law, the principal office of a council must be open to the public for the transaction of business during hours determined by the council, except if the council is satisfied that it is reasonably necessary as a result of the public health emergency—</p> <p>(a) for the principal office of the council to be closed; or</p> <p>(b) for the transaction of business hours at the principal office of the council to be varied.</p> <p>(3) If a council closes its principal office or varies the transaction of business hours in accordance with subsection (2), the council must, as soon as reasonably practicable, take reasonable steps to—</p> <p>(a) make alternative arrangements to enable the local community to access the services of the council that are ordinarily available at the principal office of the council; and</p> <p>(b) inform its local community (including by publishing the information on a website determined by the chief executive officer) about the changes to the arrangements to access those services.</p> <p>(4) Any obligation under this Act to make a document available for inspection at the principal office of the council, is taken to be satisfied if—</p> <p>(a) the document is published on a website determined by the chief executive officer; or</p> <p>(b) the document is made available for inspection at an alternative place or by an alternative means; or</p> <p>(c) a hardcopy or an electronic copy of the document is provided on request (without charge or payment of a fee).</p> <p>(5) If a council or chief executive officer makes a document available for inspection in accordance with subsection (4), the council or chief executive officer must, as soon as reasonably practicable, take reasonable steps to inform its local community (including by publishing the information on a website determined by the chief executive officer) about the changes to the arrangements for inspection of the document.</p> <p>(6) For the purposes of section 70(1) of this Act, if a council makes a Register of Interests available for inspection through any of the alternative arrangements specified in subsection 45(4), the council must suppress the details of the members' residential addresses from the Register.</p> <p>(7) For the avoidance of doubt, any section in the Act that provides for a document or information to be published or made available on a website continues to operate without variation unless otherwise stated in this notice or any other notice published under section 302B of the Act.</p> <p>(8) If a council is required under this Act to provide a copy of a document (either the whole document or an extract of the document) without charge or without payment of a fee—</p> <p>(a) the council must send a copy of the document on request, in the form requested, without charge or payment of a fee; and</p>

- (b) by doing so is taken to have complied with any obligation in this Act to make the document available at the principal office of the council.
- (9) If a council is required under this Act to provide a copy of a document (either the whole document or an extract of the document) on payment of a fee fixed by the council—
- (a) the council must send a copy of the document on request, in the form requested, subject to payment of the taken to have complied with any obligation in this Act to make the document available at the principal office of the council.
- (10) If a council makes copies of a document available in accordance with subsections (8) or (9), the council must, as soon as reasonably practicable, take reasonable steps to inform its local community (including by publishing the information on a website determined by the chief executive officer) about the changes to the arrangements for provision of copies of the document.
- (11) In this section—
document does not include the assessment record kept under Chapter 10 of this Act or an entry made in the assessment record.

Note—

1. The term *document* includes all documents referred to in the Act (for example, registers, records, policies, draft policies, reports, codes, certified copies of by-laws etc) except for the assessment record or an entry made in the assessment record.
2. For the purposes of subsection (4)(c), the council may determine the form (either hardcopy or electronic) in which the document is provided.
3. If a document has been made available for inspection in accordance with subsection (4)(c) and a copy of the document to which subsection (8) applies is requested in a different form (either electronic or hardcopy), the council is to provide a further copy of the document in the requested form.
4. If a document has been made available for inspection in accordance with subsection (4)(c) and a copy of the document to which subsection (9) applies is requested in a different form (either electronic or hardcopy), the council is to provide a further copy of the document in the requested form on payment of the relevant fee fixed by the council.
5. This section does not apply to section 84 of the Act (as varied by the *Public Health Emergency: Electronic Participation in Council Meetings Notice (No 1) 2020*).

- Section 50 After subsection (5) insert:
(5a) For the purposes of this section, a council may alter its public consultation policy or substitute a new policy without undertaking public consultation, even if the existing public consultation policy requires the council to conduct public consultation.
- Section 50 Suspend subsections (6) and (7).
- Section 72 After subsection (3) insert:
(3a) A regional subsidiary is taken to have made a Register of Interests available for public inspection during ordinary office hours if the subsidiary provides a copy of the Register of Interests on request (without charge or payment of a fee).
- Section 88(1a) Suspend subsection (1a)(a).
- Section 88(4) Delete subsection (4) and substitute:
The notice and agenda must continue to be published on the website under subsection (1a) until the completion of the relevant meeting.
- Section 123(4)(a) Suspend subsection (4)(a)(i).
- Section 123(4)(b) Delete subsection (4)(b) and substitute:
the consideration by the council of any submissions made in response to the invitation under paragraph (a)(ii).
- Section 123(5) Delete subsection (5) and substitute:
The council must ensure that copies of the draft annual business plan are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council (including as provided for in sections 45(4) and 45(9)) and on the website at least 21 days before the end of the period for providing written submissions.
- Section 132 After subsection (3a) insert:
(3b) For the purposes of subsections (3) and (3a)—
(a) the time at which the document is available for inspection at the principal office of the council includes the time at which the document is taken to be available for inspection at the principal office of the council pursuant to section 45(4); and
(b) if the document is taken to be available for inspection at the principal office of the council pursuant to section 45(4)(a), the council is taken to have satisfied its duty under sections 132(3) and 132(3a) in respect of that document.
- Section 151(7)(a) Suspend subsection (7)(a)(i).
- Section 151(7)(b) Delete subsection (7)(b) and substitute:
the consideration by the council of any submissions made in response to the invitation under paragraph (a)(ii).
- Section 151(8) Delete subsection (8) and substitute:
The council must ensure that copies of the report required under subsection (5)(d) are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council (including as provided for in sections 45(4) and 45(9)) at least 21 days before the end of the period for public consultation.
- Section 156(14d)(a) Suspend subsection (14d)(a)(i).

Section 156(14d)(b)	Delete subsection (14d)(b) and substitute: the consideration by the council of any submissions made in response to the invitation under paragraph (a)(ii).
Section 156(14e)	Delete subsection (14e) and substitute: The council must ensure that copies of the report required under subsection (14a)(a) are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council (including as provided for in sections 45(4) and 45(9)) at least 21 days before the end of the period for public consultation.
Section 174	Subsection (1) is suspended.
Schedule 2, clause 10	After sub-clause (2) insert: (3) A copy of a direction given by the council under this clause is taken to be available at the principal office of the council if a copy of the direction is provided on request (without charge or payment of a fee).

This notice operates from the date of publication in the South Australian Government Gazette.

This notice has effect for the period specified in section 302B(2)(d)(ii) of the Act.

Dated: 8 April 2020

HON STEPHAN KNOLL MP
Minister for Transport, Infrastructure and Local Government
Minister for Planning

All instruments appearing in this gazette are to be considered official, and obeyed as such

Appendix 2

Public Consultation Policy Addendum

PUBLIC CONSULTATION POLICY

ADDENDUM

(For purposes of Public Access and Public Consultation Notice (No 2) 2020)

Public Health Emergency: Public Access and Public Consultation

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On 8 April 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the *Local Government Act 1999*, the *Public Access and Public Consultation Notice (No 2) 2020 (Notice No 2)* varying or suspending the operation of the specified provisions of the *Local Government Act 1999* as set out in Schedule 1 to Notice No 2. Notice No 2 commenced operation on 8 April 2020.

For the period Notice No 2 has effect (as provided for in Notice No 2), this Public Consultation Policy is altered as set out below and those alterations have effect notwithstanding any other provision in this Policy to the contrary.

For the avoidance of doubt, save for the alterations to the Policy as set out below, the Policy otherwise applies to public consultation undertaken by the Council for the purposes of the *Local Government Act 1999*.

Alterations to Public Consultation Policy

A. Definitions

For the purposes of these alterations **the Council** includes an officer or employee of the Council acting within the scope of that person's ordinary functions and duties except in circumstances where these alterations expressly require a matter to be considered at a meeting of the Council.

B. Statutory Requirement to Hold Public Meetings Suspended

The Council will not publish a notice in a newspaper circulating in the area of the Council inviting interested persons to attend a public meeting or meeting of the Council in relation to any matter within the scope of Sections 123, 151 or 156 of the *Local Government Act 1999* for which public consultation is required under the *Local Government Act 1999*. The Council will not hold such a public meeting or invite persons to attend a meeting of the Council to ask questions or make submissions on the matter.

The Council will publish a notice in a newspaper circulating in the area of the Council inviting interested persons to make written submissions within the period stated in the notice (which will not be less than 21 days after the publication of the notice) in relation any matter within the scope of Sections 123, 151 or 156 of the *Local Government Act 1999* for which public consultation is required under the *Local Government Act 1999*. The Council will consider the submissions at a meeting of the Council.

PUBLIC CONSULTATION POLICY

ADDENDUM

(For purposes of Public Access and Public Consultation Notice (No 2) 2020)

C. Other Requirement to Hold Public Meeting Suspended

The Council will not hold a public meeting in relation to any matter for which the *Local Government Act 1999* requires the Council to follow the steps set out in its public consultation policy.

The Council will not hold a public meeting in relation to any matter for which this Policy would, but for this provision, require the Council to hold a public meeting.

To the extent this Policy would otherwise require the Council to hold a public meeting in relation to a matter, the Council will instead publish a notice on its website or in a newspaper circulating in the area of the Council inviting interested persons to make written submissions in relation to any matter within the period stated in the notice (which will not be less than 21 days after the publication of the notice, unless the matter is considered by the Council to require urgent consideration and it is not otherwise contrary to the *Local Government Act 1999* to consult for a lesser period). The Council will consider the submissions.

D. Other Requirement to undertake in Person Consultation Activity Suspended

The Council will not undertake any form of face-to-face or in person public consultation activity (including without limitation a door knock, focus group, forum, briefing session, workshop, open house, citizen panel, conversation café, citizen jury, round table or symposium) in relation to any matter for which the *Local Government Act 1999* requires the Council to follow the steps set out in its public consultation policy.

The Council will not undertake any form of face-to-face or in person public consultation activity (including without limitation a door knock, focus group, forum, briefing session, workshop, open house, citizen panel, conversation café, citizen jury, round table or symposium) in relation to any matter for which this Policy would, but for this provision, require the Council to hold such an activity.

To the extent this Policy would otherwise require the Council to hold a face-to-face or in person public consultation activity in relation to a matter, the Council will instead publish a notice on its website or in a newspaper circulating in the area of the Council inviting interested persons to make written submissions in relation any matter within the period stated in the notice (which will not be less than 21 days after the publication of the notice, unless the matter is considered by the Council to require urgent consideration and it is not otherwise contrary to the *Local Government Act 1999* to consult for a lesser period). The Council will consider the submissions.

E. Suspension of Other Inconsistent Provisions

To the extent that any other provision of this Policy could be read as requiring the Council to undertake public consultation with a person face-to-face or in person, the provision is suspended while these provisions are in effect and the provisions of paragraph D operate in their stead.