

# NOTICE OF COUNCIL MEETING

Pursuant to the provisions of section 83(2) of the  
*Local Government Act 1999*

**The Special Meeting of the**



**Adelaide  
Plains  
Council**

will be held by

**by electronic means**

on

**Thursday 19 November 2020 at 12.00pm**

A handwritten signature in black ink, appearing to be 'James Miller'.

James Miller

**CHIEF EXECUTIVE OFFICER**

## INDEX

**1 ATTENDANCE RECORD**

**2 ADJOURNED BUSINESS**

Nil

**3 DECLARATION OF MEMBERS' INTEREST**

**4 ITEM FOR DECISION**

4.1 Delegation of Powers Arising from the Public Access and Public Consultation Notice  
(No 2) 2020 – Principal Office

**5 CLOSURE**

 <b>Adelaide Plains Council</b>	<b>4.1</b>	<b>Delegation of Powers Arising from the Public Access and Public Consultation Notice (No 2) 2020 – Principal Office</b>
	<b>Department:</b>	<b>Governance and Executive Office</b>
	<b>Report Author:</b>	<b>General Manager – Governance and Executive Office</b>
<b>Date: 19 November 2020</b>	<b>Document Ref:</b>	<b>D20/54557</b>

## **OVERVIEW**

### Purpose

The purpose of this report is for Council to consider delegating the power to close, or otherwise vary, the operating hours of the Mallala Principal Office due to the COVID-19 public health emergency, and State lockdown.

### Background

Section 45(2) of the *Local Government Act 1999* (the Act) provides that the principal office of a council must be open to the public for the transaction of business during hours determined by the council. The *Public Access and Public Consultation Notice (No 2) 2020* (Notice 2) was the second Notice made by the Minister in April 2020 in exercise of his new emergency powers. A copy of Notice 2 is available to download here: [South Australian Government Gazette](#).

The variations in Notice 2 cover:

1. 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 Notice 2 are complied with;
2. Councils are excused from undertaking certain mandatory public meetings in respect of certain types of public consultation; and
3. Documents that are to be made available for public inspection or copy at the principal office to be provided by alternative means.

Council dealt with parts 2 and 3 above, by amending both its *Code of Practice – Access to Council Documents and Meetings* and *Public Consultation Policy* at its Ordinary Council Meeting on 27 April 2020. At that time, it was not considered necessary to close Council's Principal Office and part 1 above was therefore not addressed.

## Discussion

As members will be aware, the public health emergency in South Australia has rapidly escalated this week and from 12am on 19 November 2020, the State entered into lockdown. At the time of preparing this report, the State direction provides that people should not leave their homes other than for attending work as an essential worker or for the purpose of accessing food/supermarkets and medical supplies.

It is therefore now necessary for Council to consider the opening hours of the Mallala Principal Office. The Local Government Association (LGA), via recent emergency management briefings, have recommended that councils take a precautionary approach during this period and in doing so, close their offices to the public to align with the State Government's direction. Indeed, Notice 2 was prepared to enable this to occur.

In light of the above, it is recommended that Council delegate its relevant powers arising from Notice 2 to the Chief Executive Officer (CEO). This will allow the CEO to close, or vary the opening hours of, the Mallala Principal Office, if satisfied that it is reasonably necessary as a result of the public health emergency, in a timely manner and consistent with State directions.

## Conclusion

Notice 2 provides councils with the ability to close, or otherwise vary, their principal offices without the necessary notice under SAPH Act or public consultation. The LGA has recommended that in light of the State's lockdown as of 12am on 19 November 2020, councils indeed should close their principal offices – at least for the duration of lockdown.

It is therefore Management's recommendation that Council delegate the powers arising from Notice 2 to the CEO. Once the necessary powers are in place, the CEO intends to close the Mallala Principal Office to the public for the remainder of the six (6) day lock down. With the exception of face-to-face dealings, Council's customer service function will remain in operation (i.e. customers will be able to contact Council, and indeed access Council's services, via telephone, online and email during ordinary business hours).

The recommendation below is based directly on a template provided by the LGA.

## **RECOMMENDATION**

***“that Council, having considered 4.1 – Delegation of Powers Arising from the Public Access and Public Consultation Notice (No 2) 2020 – Principal Office, dated 19 November 2020:***

- 1. In exercise of the power contained in Section 44 of the Local Government Act 1999 (the LG Act) hereby delegates this 19th of November 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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## **References**

### Legislation

*Local Government Act 1999 (SA)*

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

### Council Policies/Plans

*Strategic Plan*

*4.5 Accountable & Sustainable Governance*