

NOTICE OF COUNCIL MEETING

Pursuant to the provisions of section 84 (1) of the
Local Government Act 1999

The Special Meeting of the



will be held in

**Council Chamber
Redbanks Road
Mallala**

on


Monday 27 June 2022 at 6:15pm

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

James Miller
CHIEF EXECUTIVE OFFICER

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 Adelaide Plains Council	4.1	COVID-19 Cessation of Emergency Declaration – Impact on Council
	Department: Report Author:	Governance and Executive Office General Manager – Governance and Executive Office
Date: 27 June 2022	Document Ref:	D22/24625

EXECUTIVE SUMMARY

- The purpose of this report is to:
 - Update Council, and the public, in relation to the practical implications (for Council) of the recent cessation of the State Government’s COVID-19 Emergency Declaration; and
 - Seek Council’s direction in relation to the ongoing live streaming and uploading of recordings of Council Meetings.
- In March 2020 and as a result of the COVID-19 public health emergency, a new section (302B) was inserted into the *Local Government Act 1999* (the LG Act). This new section gave the Minister for Transport, Infrastructure and Local Government (the Minister) the power to vary or suspend the operation of provisions of the LG Act where it was reasonably necessary during a public health emergency.
- The Minister subsequently made a number of ‘Notices’ which varied and suspended various provisions of the LG Act, including, but not limited to, electronic participation in, and public access to, Council and Committee meetings. A more detailed overview of the various changes is provided within the body of this report.
- The COVID-19 Emergency Declaration was revoked on 24 May 2022 and, accordingly, the Notices ceased to operate on Tuesday 21 June 2022. The practical implication of this is that Council’s abilities and obligations have ‘reverted back’ to their ‘pre-COVID’ state. Specifically, in relation to Council and Committee meetings:
 - Council and Committee meetings must be conducted in a physical place and not by electronic means;
 - Council Members may only participate in Council meetings in person; and
 - Public access to Council and Committee meetings must be provided, at a minimum, by physical access to the place of the meeting (in most cases, the Council Chamber).
- The practice of live streaming and uploading recordings promotes accessibility and transparency. Although Council is no longer *required* to live stream meetings or upload recordings to its website (as was the legislative requirement from April 2020 to May

2022), it may choose to continue to do so on an ongoing basis in addition to providing physical public access.

- Recognising that Committee meetings are a forum for *recommendations to Council* rather than decision making, it is not considered necessary, or recommended, to live stream and upload recordings of Committee meetings (which will remain open to the public to physically attend in any event).
- Ultimately, it is for Elected Members to consider whether to continue to live stream and/or upload recordings of its Council meetings on a discretionary basis (Recommendation 2).

RECOMMENDATION 1 – Acknowledge the Cessation of Emergency Declaration

“that Council, having considered Item 4.1 – *COVID-19 Cessation of Emergency Declaration – Impact on Council*, dated 27 June 2022, receives and notes the report and in doing so acknowledges the cessation of the COVID-19 Emergency Declaration and the associated impacts on Council.”

RECOMMENDATION 2 – Live Streaming/Recording of Council Meetings

“that Council, having considered Item 4.1 – *COVID-19 Cessation of Emergency Declaration – Impact on Council*, dated 27 June 2022:

1. **Notes that although there is no longer a legislative requirement to live stream, or make available recordings of, Council meetings, in the interests of promoting greater public access and transparency, resolves to live stream all Council meetings and/or upload the associated recordings onto Council’s website on an ongoing basis; and**
2. **Instructs the Chief Executive Officer to incorporate the Council’s policy position outlined in 1 above into Council’s *Code of Practice – Access to Council Meetings and Documents*.”**

BUDGET IMPACT

Estimated Cost:	Nil
Future ongoing operating costs:	Ongoing IT hardware and resourcing support
Is this Budgeted?	No

RISK ASSESSMENT

Council has live streamed and uploaded recordings of its meetings since April 2020, prompted by the (temporary) amendments to the LG Act.

The practice of live streaming and uploading recordings promotes accessibility and transparency. Although Council is no longer *required* to live stream meetings and/or upload recordings to its website (as was the legislative requirement from April 2020 to May 2022), it may choose to continue to do so in addition to providing physical public access.

In addition to no legal requirement to live stream and/or upload recordings of meetings, there is also no current direction or policy position from Council in this regard. It is therefore for Elected Members to determine whether to, on an ongoing and discretionary basis, continue to live stream and/or upload recordings of its meetings. Any such decision should be clear, transparent and reflected within Council's *Code of Practice – Access to Council Meetings and Documents*.

Attachments

Nil

DETAILED REPORT

Purpose

The purpose of this report is to:

- Update Council, and the public, in relation to the practical implications (for Council) of the recent cessation of the State Government's COVID-19 Emergency Declaration; and
- Seek Council's direction in relation to the ongoing live streaming and/or recording of Council Meetings.

Background

In March 2020 and pursuant to the *Emergency Management Act 2004* (the Emergency Management Act), the State Government declared a Major Emergency in relation to the outbreak of COVID-19. As a result, a new section (302B) was inserted into the *Local Government Act 1999* (the LG Act). This new section empowered the Minister for Transport, Infrastructure and Local Government to, by Notice published in the Government Gazette, vary or suspend the operation of provisions of the LG Act where it was reasonably necessary during a public health emergency (where relevant declarations had been made). Accordingly, the Minister made the following initial Notices:

- Electronic Participation in Council Meetings Notice (No 1);
- Public Access and Public Consultation Notice (No 2);
- District Council of Coober Pedy Electronic Participation in Council Meetings Notice (No 3) 2020; and
- Annual Business Plans and Strategic Planning Notice (No 4).

On 11 November 2021, and in order to reflect changes to the LG Act following the commencement of various sections of the *Statutes Amendment (Local Government Review) Act 2021* on 10 November 2021, the Minister for Planning and Local Government published the:

- Electronic Participation in Council Meetings Notice (No 5) 2021 which revoked Notice No 1; and
- Public Access and Public Consultation Notice (No 6) which revoked Notice No 2.

Councils were not required to take additional steps following the publication of Notice No 6 and Notice No 6 – references to the preceding notices were, as a matter of law, automatically taken to be references to the updated notices (in accordance with Section 14B of *the Acts Interpretation Act 1915*).

Discussion

As members would now be aware, the Major Emergency Declaration underpinning the Ministerial Notices made under Section 302B of the LG Act was **revoked on Tuesday 24 May at 12.25pm.**

Based on the cessation of the Emergency Declaration, all Notices made under section 302B ceased to have effect 28 days from 24 May (i.e. the last day Notices were in effect was 21 June 2022). The practical implications for Council are outlined below.

Council Meetings – Attendance

- Council meetings (Ordinary and Special) must be conducted in a physical place and not by electronic means.
- Council Members may only participate in Council meetings in person.
- Persons making a deputation must appear in person.
- The LG Act does not prescribe the manner by which staff or invited consultants must attend a meeting and, accordingly, staff and invited guests (consultants, presentations) may attend in person or by electronic means.

Potential for electronic participation in council meetings in the future

Although the LG Act currently does not allow for electronic participation in Council Meetings, Members will recall that the Local Government Association (LGA) consulted, in early 2021 and following a decision of member councils at the LGA's 2020 Annual General Meeting, on a proposal for to the State Government to include provisions in the LG Act and the *Local Government (Procedures at Meetings) Regulations 2013* in order to allow electronic attendance post the public health emergency. Council resolved to support this proposal and feedback was provided accordingly. Following recent enquiries with the LGA, Management is advised that this position was widely supported by the sector and advocacy in this regard will likely increase in 2023 once the Local Government Reforms are finalised.

Section 41 Committee Meetings – Attendance

- Committee meetings must be held in a physical place and not by electronic means.
- The ability for Committee members to participate in a meeting by telephone or electronic means has always existed under section 90(7a) of the LG Act. Council's current *Code of Practice – Meeting Procedures* provides the following discretionary/Council determined procedure:
 - *The Chairperson [of a Committee] may deem it appropriate for one (1) or more members to participate in committee meetings, covered by Clause 5 'Application of Part', via telephone or electronic means. In doing so the method*

must ensure that all members and public member present are able to clearly hear the discussions.

Public Access to Council and Committee Meetings

- Public access must be provided to Council and Committee meetings, at a minimum, by physical access to the place of the meeting (the Council Chamber).
- Council is no longer required to live stream or upload recordings of its meetings.
- It may choose to continue to do so, however this does not negate the requirement for physical public access to the meeting. In accordance with the recommendation above, it is for Elected Members to determine, and resolve, whether to continue to live stream and/or upload recordings of its meetings noting that the most recent resolution in relation to same will no longer apply post the public health emergency:

MOTION WITHOUT NOTICE

Moved Councillor Panella

Seconded Councillor Parker

2020/171

“that Council instructs the Chief Executive Officer, that for the duration that Council holds its meetings by electronic means in light of the COVID-19 public health emergency, to formally have all Council Meetings that have been recorded in the past via Zoom and currently recorded via Zoom, be made available to the public via APC website as soon as possible, in order of being transparent to the public.”

CARRIED

Information or Briefing Sessions

- Can be facilitated by electronic means under the LG Act and irrespective of the emergency declarations. Council has incorporated the necessary provisions into its *Code of Practice – Meeting Procedures*.
- Where public access is required and an information or briefing session is being facilitated by electronic means, public access may also be provided by live stream or a recording uploaded after the session.

Access to Council Documents

Notice 6 suspended various requirements for documents to be either on display or available for inspection at Council’s Principal Office. Instead, these documents could be made available electronically or a hard copy provided to a customer without being charged the relevant photocopy fee in accordance with Council’s *Schedule of Fees and Charges*. Moving forward, Council will be required to manage access to documents in accordance with the LG Act (in particular, but not limited to, Section 132 and Schedule 5).

Public Access and Public Consultation

Council no longer has the ability to close its principal office without first undertaking public consultation, as is ordinarily the requirement under the LG Act. Council must also revert back to undertaking the 'standard' public consultation in accordance with the LG Act, including the resumption of holding mandatory public meetings – for example in relation to the annual business plan and budget.

Of course, as Members are aware, the existing public consultation framework will soon (not yet proclaimed) be replaced entirely by a Community Engagement Framework.

Annual Business Plans and Strategic Management Plans

Council will no longer have the additional three (3) months within which to review its strategic management plans, nor will it have the additional three (3) months for the rates declaration, annual business plan and draft budget process. These processes will all revert to the standard provisions under the LG Act.

The policies impacted by the cessation of the Emergency Declaration as outlined above have been updated and are accessible on Council's website at <https://www.apc.sa.gov.au/our-council/policies>.

Conclusion

This report is provided by way of update and information to members. In acknowledging the impact of the recent cessation of the COVID-19 Emergency Declaration (and associated cessation of Ministerial Notices), it is recommended that Council consider its position in relation to the ongoing live streaming and/or recording of Council Meetings (noting that there is no longer a legislative requirement to do so).

References

Legislation

Local Government Act 1999

Local Government (Procedures at Meetings) Regulations 2013

Emergency Management Act 2004

Acts Interpretation Act 1915

Statutes Amendment (Local Government Review) Act 2021

Council Policies/Plans

Strategic Plan 2021-2024

Proactive Leadership

Code of Practice – Access to Council Meetings and Documents

Code of Practice – Meeting Procedures

Public Consultation Policy

Schedule of Fees and Charges