

His Worship the Mayor
Councillors
CITY OF MARION

NOTICE OF SPECIAL GENERAL COUNCIL MEETING

Monday, 27 April 2020 at 06:30 PM

Virtual Meeting Room - Zoom

The CEO hereby gives Notice pursuant to the provisions under Section 83 of the Local Government Act 1999 that a General Council meeting will be held

A copy of the Agenda for this meeting is attached in accordance with Section 83 of the Act.

Meetings of the Council are open to the public. Due to COVID-19 interested members of this community are welcome to attend by electronic means. Access to the meeting is via the link published on the City of Marion website (<https://www.marion.sa.gov.au/about-council/council-meetings/council-meeting-live-stream>) on the day of the meeting.



Adrian Skull
Chief Executive Officer



TABLE OF CONTENTS

OPEN MEETING	3
KAURNA ACKNOWLEDGEMENT	3
DISCLOSURE	3
ELECTED MEMBERS DECLARATION OF INTEREST (if any)	3
CORPORATE REPORTS FOR DECISION	3
COVID-19 - Code of Practice - Access to Council Meetings and Documents	3
COVID-19 - Code of Practice - Procedures at Council Meetings	26
COVID-19 - Informal Gatherings Policy	54
CONFIDENTIAL ITEMS	64
Cover Report - Confirmation of Confidential Minutes of the Special Review and Selection Committee meetings held on 24 March 2020 and 30 March 2020	64
Confirmation of Confidential Minutes of the Special Review and Selection Committee meetings held on 24 March 2020 and 30 March 2020	65
Cover Report - Confirmation of Confidential Minutes of the Infrastructure and Strategy Committee meeting held on 7 April 2020	66
Confirmation of Confidential Minutes of the Infrastructure and Strategy Committee Meeting held on 7 April 2020	67
Cover Report - Review and Selection Committee - Appointment of Independent Council Assessment Panel (CAP) Members	68
Review and Selection Committee - Appointment of Independent Council Assessment Panel (CAP) Members	69
Cover Report - Marion Golf Course Expression of Interest	70
Marion Golf Course Expression of Interest	71
Cover Report - Edwardstown Soldiers Memorial Community Club	72
Edwardstown Soldiers Memorial Recreation Ground Request for Proposals for Management Services	73
Cover Report - SRWRA Information Report (Confidential) - Board Meeting 3 February 2020	74
SRWRA Information Report (Confidential) - Board Meeting 3 February 2020	75
Cover Report - Disclosure Incident	76
Disclosure Incident	77
CORPORATE REPORTS FOR INFORMATION/NOTING - Nil	78
OTHER BUSINESS	78
MEETING CLOSURE	78

OPEN MEETING

KAURNA ACKNOWLEDGEMENT

We acknowledge the Kaurna people, the traditional custodians of this land and pay our respects to their elders past and present.

DISCLOSURE

All persons in attendance are advised that the video of this General Council meeting will be live streamed on the City of Marion website. Following the meeting the recorded audio will be made available on the website.

ELECTED MEMBER'S DECLARATION OF INTEREST (if any)

CORPORATE REPORTS FOR DECISION

COVID-19 - Code of Practice - Access to Council Meetings and Documents

Originating Officer	Unit Manager Governance and Council Support - Jaimie Thwaites
Corporate Manager	Manager Corporate Governance - Kate McKenzie
General Manager	General Manager City Services - Tony Lines
Report Reference	SGC200427R01

REPORT OBJECTIVE

To provide Council with proposed amendments to the Code of Practice - Access to Council Meetings and Documents as a result of the COVID-19 situation.

EXECUTIVE SUMMARY

The *Electronic Participation in Council Meetings Notice (No 1) 2020* (Notice) is the first Notice made by the Minister for Transport, Infrastructure and Local Government in exercise of his new emergency power under section 302B of the Local Government Act 1999. The Notice allows for council members to participate in Council meetings by electronic means and for meetings to be live streamed in order to satisfy the requirement that a meeting be conducted in a place open to the public. A copy of the Notice is included as Attachment 1.

The Code of Practice - Access to Meetings and Documents has been updated with recommended amendments to enable the meetings to be conducted by electronic means. The amended document for Council endorsement is included as Attachment 2.

RECOMMENDATION

That Council:

- 1. Adopts the Code of Practice - Access to Meetings and Documents as attached as Attachment 2 to this report.**

DISCUSSION



Pursuant to Section 92 of the Local Government Act 1999, Council is required to have a Code of Practice for Access to Council Meetings and Documents (the Code). The objective of the Code is to clearly document how Council will deal with public access to its meetings and associated documents and in what circumstances the public access will be restricted.

The *Electronic Participation in Council Meetings Notice (No 1) 2020* (Notice) is the first Notice published in the Government Gazette on 31 March 2020 by the Minister for Transport, Infrastructure and Local Government in exercise of his new emergency power under section 302B of the *Local Government Act 1999* (LG Act). A copy of the Notice is included as Attachment 1.

Section 302B of the LG Act empowers the Minister for Transport, Infrastructure and Local Government to vary or suspend the operation of provisions of the Act where it is reasonably necessary during a public health emergency (where relevant declarations have been made).

This Notice provides variations to the LG Act to enable Council meetings to be live streamed in order to satisfy the requirement that a meeting be conducted in a place open to the public. If the CEO (or nominee) takes reasonable steps to provide a live stream but is unable to provide a live stream, then a recording may be placed on the council's website instead, as soon as practicable after the meeting.

If the CEO takes reasonable steps but can provide neither a live stream nor a recording, and no other reasonable step will allow the meeting to be held in a place open to the public, then the obligation to hold the meeting in a place open to the public is suspended (though the CEO or nominee must publish a statement explaining what reasonable steps were taken).

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).

This Notice also provides variations to the LG Act to enable meeting notices, agenda and reports, other accompanying documents, and minutes to not be required to be displayed at the principal office but must still be published on a website determined by the CEO.

The notice and agenda must continue to be published on the website until the completion of the relevant meeting. The minutes must be published on the website within 5 days after the meeting and kept on the website for a period of one month.

Initialling and signing of the confirmed minutes by the Presiding Member may be done in hardcopy or electronically.

As most of the change in this Notice relates to access to meetings and documents, at the first meeting of a council after the making of the Notice, the first item of business at that meeting must be the consideration of the alteration or substitution of 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 by majority vote and without any requirement for public consultation.

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). Failure to make necessary alterations to the Code of Practice will impact on council's ability to continue meeting electronically.

In accordance with Section 302B(2)(d)(ii), the amendments have effect until 28 days after the cessation of all relevant declarations relating to the emergency to which the notice relates.

Attached as Attachment 2 is a copy of the Code of Practice - Access to Meetings and Documents with the suggested amendments "marked up".



Attachment

#	Attachment	Type
1	Attachment 1 - Notice Pursuant to Sec 302B of the LG Act 1999	PDF File
2	Attachment 2 - Code of Practice - Access to Council Meetings and Documents	PDF File

SUPPLEMENTARY GAZETTE



**THE SOUTH AUSTRALIAN
GOVERNMENT GAZETTE**

PUBLISHED BY AUTHORITY

ADELAIDE, TUESDAY, 31 MARCH 2020

CONTENTS

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
	<ul style="list-style-type: none"> (ii) can be heard by all other members present at the meeting; and (iii) can be heard by the person recording the minutes of the meeting. (b) A quorum is taken to be present even if 1 or more council members constituting the quorum is present by electronic means.
Section 86	<p>After subsection (9) insert:</p> <p>(10) For the purposes of this section—</p> <ul style="list-style-type: none"> (a) a member of the council participating in a council meeting is taken to be present at the meeting provided that the member— <ul style="list-style-type: none"> (i) can hear all other members present at the meeting; (ii) can be heard by all other members present at the meeting; and (iii) can be heard by the person recording the minutes of the meeting.
Section 86	<p>After subsection (8) insert:</p> <ul style="list-style-type: none"> (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.
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> <ul style="list-style-type: none"> (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 (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>(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> <ul style="list-style-type: none"> (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 (b) subsection (1) is suspended.
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)	<p>Delete subsection (5) and substitute:</p> <p>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.</p>
Section 90(9)	<p>After “In this section—” insert:</p> <p>connect means able to hear and/or see the meeting, including via a live stream or recording of the meeting;</p> <p>disconnect means remove the connection so as to be unable to hear and see the meeting;</p> <p>live stream means the transmission of audio and/or video from a meeting at the time that the meeting is occurring;</p>
Section 91(4)	<p>Delete subsection (4) and substitute:</p> <p>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.</p>
Section 92	<p>Delete subsection (1) and substitute:</p> <p>(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.</p> <p>(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.</p>
Section 92	<p>After subsection (3) insert:</p> <p>(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.</p>
Section 92 (5)	Suspend section 92(5).
Local Government (Procedures at Meetings) Regulations 2013	
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="padding-left: 40px;">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="padding-left: 40px;">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 style="padding-left: 20px;"><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

Code of Practice - Access to Council Meetings and Documents

1. RATIONALE

Council must prepare and adopt a Code of Practice, in accordance with Part 5 of the Local Government Act 1999 (the Act), that relates to the principles, policies, procedures and practices that the Council will apply for the purpose of the operation of Part 3 and Part 4 of the Act.

2. POLICY STATEMENT

- 2.1 The City of Marion is committed to the principles of honest, open and accountable government and encourages community participation in the business of Council.
- 2.2 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 Act), the City of Marion supports the principle that procedures to be observed at a Council or Committee meeting should contribute to transparent and informed decision making and encourage appropriate community participation in the business of Council. However, the City of Marion also recognises that on a limited number of occasions it may be necessary in the broader community interest to restrict public access to discussion or documents.

3. OBJECTIVES

This Code of Practice sets out the policy framework for access to meetings and documents and provides guidance as to the application of provisions in the Act to restrict public access to meetings and/or documents.

- 3.1 The Code of Practice aims to;
 - 3.1.1 Provide the community with information on access to Council and Council Committee meetings and the documents of those meetings;
 - 3.1.2 Summarise the legal position relating to public access to the Council and Council Committee meetings, agendas, documents and minutes of meetings; and
 - 3.1.3 Outline to the community for what purpose and on what basis the Council may apply the provisions of the Act to restrict public access to Council and Council Committee meetings or documents and minutes.

4. POLICY SCOPE AND IMPLEMENTATION

- 4.1 This Code of Practice applies to Council and Council Committees and the associated agenda, minutes and attachments that relate to those meetings;
- 4.2 The Code of Practice does not apply to the Development Assessment Panel (DAP) as the requirements of the DAP are defined within the Development Assessment Act 1993;
- 4.3 Section 132 of the Act states that Council must make certain documents available for public inspection. The Code of Practice does not apply to those documents;
- 4.4 Where the Freedom of Information Act 1991 (FOI Act) provides for access to Council's administrative documents which are not normally available to the public, then those documents are not included in the scope of this Code.

5. Access to the Agenda for Meetings

- 5.1 In accordance with the Act, the Chief Executive Officer (CEO) must give written notice of an ordinary meeting to all the Council or Committee Members, setting out the date, time and place of the meeting at least three clear days before the meeting.
- 5.2 The notice contains or is accompanied by the agenda for the meeting and a list of the items of business, plus any documents and reports relating to these matters (with the exception of any matters that might be potentially subject to the making of an order of confidentiality).
- 5.3 The notice and agenda are also placed on public display at the principal office of the Council, and available via Council's website: www.marion.sa.gov.au, at the same time as they are forwarded to the Council members. Further copies are made available to the public at the meeting of the Council or Council Committee.
- Note: - these provisions apply to the Council and Council Committee meetings that have as part of their responsibility some regulatory activities and those other committees to which the Council has determined these procedures will apply. Where a committee is not performing a regulatory activity these procedures may be varied, eg; 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 Council Committee [Part 3 of the Local Government (Procedures at Meetings) Regulations 2000].
- 5.4 Distribution of agenda papers to members of the Council, or members of a Council Committee, may contain items of business (including reports or documents) that include a recommendation from the CEO that a document or report on a particular matter may be considered in confidence to the exclusion of the public. Where this occurs, the CEO will identify the legislative ground(s) upon which the Council or Council Committee members can determine whether a confidentiality order is to be made.
- 5.5 If, upon consideration of the grounds under Section 90(3), the Council or Council Committee members do not make an order of confidentiality for an item that the CEO has recommended to be considered in confidence, then a copy of the document will be made available to the public.

6. Public Access to Meetings

- 6.1 Council (and Council Committee) meetings are open to the public and attendance is encouraged and welcomed. Meeting schedules are made available for public viewing on the website.
- 6.2 There are times where Council (or Council Committee) considers it necessary to exclude the public from the discussion of a particular matter. In these circumstances, Council (or Council Committee) will do so in accordance with Section 90(3) of the Act which outlines the circumstances when a meeting can be closed to consider a matter in confidence.
- 6.3 The public will only be excluded when the need for confidentiality outweighs the principle of open decision making, and that will be determined on a case by case basis, upon satisfying one or more of the grounds under Section 90(3) of the Act.
- 6.4 In accordance with section 90 of the Act, it is not unlawful for Members of Council, Council Committee members and staff to participate in informal gatherings or discussion provided that a matter which would ordinarily form part of the agenda for a formal meeting is not dealt with in such a way as to obtain, or effectively obtain, a decision outside of a formally constituted meeting of Council or Council Committee. Such meetings may for example be in the form of:
- planning sessions associated with the development of policies and strategies;
 - briefing or training sessions;

- workshops;
- social gatherings to encourage informal communication between members or between members and staff.

6.5 Informal gatherings will be in compliance with Council's 'Informal Gatherings Policy'

7. Matters Considered in Confidence

- 7.1 Before a meeting order that the public be excluded to enable the receipt, discussion and/or consideration of a particular matter, the meeting must, in public, formally determine that this is necessary and appropriate to do so, and then pass a resolution to exclude the public while dealing with that particular matter. If this occurs, everyone, except those persons permitted to stay by express inclusion in the resolution of Council (or Council Committee), must leave the room. Once Council, or Council Committee, has made the order it is an offence for a person, knowing that an order is in force, to enter or remain in a room in which such a meeting is being held.
- 7.2 Once discussion on a particular matter, including the making of a resolution made under Section 91(7) (if required) has concluded, the order to exclude the public lapses and the public are then permitted to re-enter the meeting. If there is a second or subsequent matter on the agenda to be considered in confidence it will be necessary for the Council or Council Committee to again undertake the formal determination process, and where satisfied resolve to exclude the public in the manner described above.
- 7.3 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 is being discussed.
- 7.4 When determining the order of matters on the agenda, Council or the Council Committee, will take into consideration the convenience of the public and the complexity of the matter to determine appropriate order.
- 7.5 In accordance with Section 90(3) of the Act, Council, or a Council Committee may order that the public be excluded in the following circumstances:
- 7.5.1 information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
 - 7.5.2 information the disclosure of which –
 - i. could reasonably be expected to confer a commercial advantage on a person with whom 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;
 - 7.5.3 information the disclosure of which would reveal a trade secret;
 - 7.5.4 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;

7.5.5 matters affecting the security of Council, members or employees of Council, or Council property, or the safety of any person;

7.5.6 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;

7.5.7 matters that must be considered in confidence in order to ensure that 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;

7.5.8 legal advice;

7.5.9 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;

7.5.10 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 Council); and

- ii. would, on balance, be contrary to the public interest;

7.5.11 tenders for the supply of goods, the provision of services or the carrying out of works;

7.5.12 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;

7.5.13 Information relevant to the review of a determination of Council under the Freedom of Information Act 1991.

7.6 Where Council, or a Council Committee, is considering making an order that the public be excluded on one or more of the grounds above it is not a relevant consideration that discussion of the matter in public may:

- i. cause embarrassment to the Council or the Council Committee concerned, or to members or employees of the Council: or

- ii. cause a loss of confidence in the Council or the Council Committee.

7.7 If a decision to exclude the public is taken, Council or the Council Committee will include details in the resolution of the making of the order and the grounds on which it was made and application of those grounds to the present matter without disclosing the issues giving rise to the confidentiality. Minutes of a meeting of Council or a Council Committee are publicly available within five days after the meeting.

8. Process to Exclude the Public and Consider a Matter in Confidence

- 8.1 Confidentiality provisions will only be utilised after careful consideration and when considered proper and necessary;
- 8.2 The grounds on which an order to exclude the public is made will be conveyed to the public at the time of the order being made and will be included in the minutes of the meeting which are available to the public within 5 days of the meeting;
- 8.3 Once discussion of the matter is concluded, the meeting will then consider if it is necessary to make an order that any report or other document or the minutes associated with the confidential agenda item remains confidential. In determining this, the meeting shall have regard to the provisions of Section 91 and in particular Section 91(8) which details when Council or a Council Committee must not order that a document in whole or in part remain confidential;
- 8.4 If a meeting determines that it is proper and necessary to keep a report or documentation confidential, then it must evidence this by resolution. Where Council or a Council Committee resolves to retain information as confidential Council or the Council Committee will specify the duration of the order or the circumstances in which the order will cease to apply or a period after which the order will be reviewed. In each case the review period must not be for a period longer than 12 months, in accordance with the Act.
- 8.5 Once discussion of the matter is concluded (and the public have returned to the meeting room), the decision of the meeting in relation to the matter will be made publicly known unless the Council has resolved to order that some information and all relevant decisions remain confidential, (eg the price to which the Council is prepared to bid for land yet to be auctioned).
- 8.6 Details relating to any order to keep information and/or discussion on the item confidential in accordance with Section 91(7) of the Local Government Act are also to be made known. When making a confidentiality 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, that period being no longer than 12 months. This along with the making of the order and the grounds on which it was made, is also recorded in the minutes.
- 8.7 In all cases the objective is that the information be made publicly available at the earliest possible opportunity.
- 8.8 Where a person provides information to Council or a Council Committee for consideration and requests that it be kept confidential Council is not able to consider this request unless the matter falls within one of the grounds under Section 90(3) of the Act. If this is the case, Council will then be in a position to consider the request on its relative merits.

9. Review of Confidential Orders

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. In any event, any order that operates for a period exceeding 12 months must be reviewed at least once in every year.

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

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.

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.

10. Public Access to Documents

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.

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.

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).

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;
- (if applicable) whether the power to revoke the order will be delegated to an employee of the Council. [s.91(9)]

Requests to access Council and Council Committee documents can be made under the *Freedom of Information Act 1991*. Inquiries in relation to the process for seeking access to documents held by Council should be directed to Council's accredited Freedom of Information Officer.

11. Accountability and Reporting to the Community

11.1 To support Council's commitment to the principle of accountability to the community, Council will report, on an annual basis, in relation to its use of the confidentiality provisions. Council will report on the following information in its Annual Report:-

- i. the number of occasions Council or a Council Committee resolved to exclude the public; and
- ii. the relevant provisions within section 90 (3) of the Act that were utilised to exclude the public.

12. Review of Council Decisions

12.1 The Act provides that Council is required to establish procedures for the review of a decision in relation to the operation of:

- 12.1.1 Council or a Council Committee
- 12.1.2 An employee of the Council
- 12.1.3 Other persons acting on behalf of the Council.

12.2 Where a person is aggrieved about a decision under Section 90 of the Act to restrict public access to either a meeting or a document, they may apply for consideration under the Review of Decisions procedure that has been established in accordance with section 270 of the Act.

13. Availability of the Code

13.1 The public may inspect a copy of this Code, without charge, at the Council offices during office hours.

13.2 A copy of the Code will be made available on the Council Website (www.marion.sa.gov.au).

13.3 Further enquiries about the Code should be directed to the Manager Corporate Governance or by telephoning Council on 8375 6600.

14. Review Process

14.1 The Act requires that the code be reviewed within 12 months of a periodic election (i.e. every 4 years). Council has the right to review this code at any time.

14.2 Before a Council adopts, alters or substitutes the Code it must;

- 14.2.1 Make copies of the proposed code, alterations or substitute code (as the case may be) available for inspection or purchase from the Council's principle office.
- 14.2.2 Follow the relevant steps set out in its public consultation policy.

15. DEFINITIONS

Agenda – A list of items of business to be considered at a meeting.

Clear Days - The time between the giving of the notice and the meeting is determined excluding the day on which the notice is given and the day of the meeting eg; notice is given on a Thursday for a following Monday meeting, the clear days being Friday, Saturday and Sunday.

Council Committee - A committee of Council established under section 41 of the Local Government Act 1999 or any other Committee established under the Act, including any subcommittee.

Deputation – a person or group of persons who wishes to appear personally before the Council or Council Committee in order to address the Council or Committee on a particular matter.

Minutes – a record of the items discussed and the resolutions made of a meeting of Council or Council Committee.

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.

The Act – *Local Government Act 1999*

16. REVIEW AND EVALUATION

Review due July 2023.

Public Health Emergency: Amendments to Allow 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.

Alterations to Code of Practice

Definitions

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

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

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

Public Notice of Council Meetings

The notice of meeting and agenda is not required to be placed on public display at each office of the Council.

A person is entitled, on payment of a fee fixed by the Council, to obtain a copy of a notice and agenda published on a website determined by the Chief Executive Officer and the notice and agenda will continue to be published on the website until the completion of the relevant meeting.

Copies of any document or report supplied to members of the Council for consideration at a meeting of the Council are not required to be made available for inspection by members of the public at the principal office of the Council or at the meeting.

Code of Practice - Access to Council Meetings and Documents

The Chief Executive Officer (or a person nominated in writing by the Chief Executive Officer) 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:

- 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
- 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.

Meetings to be Held in Public Except in Special Circumstances

A Council meeting will be taken to be conducted in a place open to the public even if 1 or more Council members participate in the meeting by electronic means provided that:

- (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
- (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.

If the Chief Executive Officer (or a person nominated in writing by the Chief Executive Officer) has taken reasonable steps but is unable to make available a live stream of the meeting, or make available a recording of the meeting as soon as practicable after the meeting (on a website determined by the Chief Executive Officer), 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 and the requirement regarding live streaming and recoding is suspended.

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) of the Act.

It is an offence for person who, knowing that an order is in force under section 90(2), to connect to a meeting of the Council or Council committee by electronic means, or fail to disconnect from a meeting of the Council or Council committee.

Minutes and Release of Documents

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.

Code of Practice - Access to Council Meetings and Documents

Code of Practice

The 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.

Council members may meet by electronic means 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 the Council members from meeting by electronic means.

The requirement in section 92(5) that before a Council adopts, alters or substitutes a code of practice it make copies of the proposed code, alterations or substitute code (as the case may be) available for inspection and purchase at the principal office of the Council and on a website determined by the Council and that the Council follow the steps set out in its public consultation policy is suspended while these provisions are in effect.

Website for Publishing

The website determined by the Chief Executive Officer will include, but may not be limited to, the City of Marion website (www.marion.sa.gov.au).

Suspension of Other Inconsistent Provisions

To the extent that any other provision of this Code of Practice could be read as being inconsistent or incompatible with the ability of the Council to hold electronic meetings, the provision is suspended while these provisions are in effect.

Expiry of Public Health Emergency Amendments

In accordance with Section 302B(2)(d)(ii), the amendments have effect until 28 days after the cessation of all relevant declarations relating to the emergency to which the notice relates.

COVID-19 - Code of Practice - Procedures at Council Meetings

Originating Officer	Unit Manager Governance and Council Support - Jaimie Thwaites
Corporate Manager	Manager Corporate Governance - Kate McKenzie
General Manager	General Manager City Services - Tony Lines
Report Reference	SGC200427R02

REPORT OBJECTIVE

To provide Council with proposed amendments to the Code of Practice - Procedures at Council Meetings as a result of the COVID-19 situation.

EXECUTIVE SUMMARY

The *Electronic Participation in Council Meetings Notice (No 1) 2020* (Notice) is the first Notice made by the Minister for Transport, Infrastructure and Local Government in exercise of his new emergency power under section 302B of the Local Government Act 1999. The Notice allows for council members to participate in Council meetings by electronic means and for meetings to be live streamed in order to satisfy the requirement that a meeting be conducted in a place open to the public. A copy of the Notice is available from the [South Australian Government Gazettes \(No. 26\)](#).

The Code of Practice - Procedures at Council Meetings has been updated with recommended amendments to enable the meetings to be conducted by electronic means. The amended document for Council endorsement is included as Attachment 1.

RECOMMENDATION

That Council:

- 1. Adopts the Code of Practice - Procedures at Council Meetings as attached as Attachment 1 to this report.**

DISCUSSION

Section 86 of the Local Government Act 1999 (the Act), prescribes the procedures at meetings at a high level.

Section 86(8) states:

Subject to this Act, the procedures to be observed at a meeting of a council will be:

- 1. As prescribed by regulation*
- 2. Insofar as the procedure is not prescribed by regulation, as determined by the Council.*

The relevant regulations are the Local Government (Procedures at Meetings) Regulations 2013 (the Regulations). If Council determines to establish its own practices in certain matters, Council must prepare a Code of Practice or Policy.

At the 20 March 2020 Special General Council meeting it was resolved

That:



2. Council's 'Code of Practice - Procedures at Council Meetings' be updated to enable Committee meetings to be held by telephone or other electronic means.
2. If regulations allowing for Council meetings to be held by telephone or other electronic means are introduced by the State Government, then Council's 'Code of Practice - Procedures at Council Meetings' be updated to enable this to occur.

The *Electronic Participation in Council Meetings Notice (No 1) 2020* (Notice) is the first Notice published in the Government Gazette on 31 March 2020 by the Minister for Transport, Infrastructure and Local Government in exercise of his new emergency power under section 302B of the *Local Government Act 1999* (LG Act). A copy of the Notice is available from the [South Australian Government Gazettes \(No. 26\)](#).

Section 302B of the LG Act empowers the Minister Transport, Infrastructure and for Local Government to vary or suspend the operation of provisions of the Act where it is reasonably necessary during a public health emergency (where relevant declarations have been made).

This Notice provides variations to the LG Act to enable Council Members to meet by electronic means in order to alter a meeting procedure determined by the council, even where that procedure currently prevents or inhibits the Council Members meeting by electronic means.

The key variations set out in the Notice include:

- Where councils use a system that provides both audio and visual connection, then both must be used (as opposed to just audio).
- Voting: The Notice varies several voting procedures in the regulations that refer to, for example, being seated, standing in their places, or showing hands, to also allow for verbal indication or voting in the affirmative or voting in the negative when participating via electronic means with audio only.
- Conflict of Interest: 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.
- 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.

Additional Amendments

Council last considered and adopted a Code of Practice - Procedures at Council Meetings (the Code) at the 23 July 2019 General Council meeting (Report Reference: GC190723R11). Since that meeting the following suggestions were put forward to be included when the Code of Practice was next reviewed:

Suggested Amendment (Section of the Code)	Comment
Include new section: 1.7 Visual or Audio Recordings	Provides guidance on recording Council meetings
Include new section: 12.7 A division can not be called on an amendment to motion as it is not a motion in its own right	To provide clarity in regards to dealing with amendments and divisions

Include new section: 20 Disruptive Behaviour	Provides guidance on defining disruptive behaviour
Include new section: 21 Dealing with Disruptive Behaviour	Outlines the process for dealing with disruptive behaviour

Alterations to council-determined meeting procedures should be considered at the beginning of the meeting (immediately after consideration of changes to the Code of Practice - Access to Meetings and Documents).

Any changes to the Code of Practice must be supported by resolution of the prescribed number of members of the Council entitled to vote on the resolution. The prescribed number is the total number of the members of the Council as a whole divided by 2, ignoring any fraction resulting from the division, and adding one (i.e. 7 members).

Attached as Attachment 1 is a copy of the Code of Practice - Procedures at Council Meetings with the suggested amendments "marked up".

Attachment

#	Attachment	Type
1	Attachment 1 - Council Member Code of Practice - Procedures at Council Meetings	PDF File

Code of Practice - Procedures at Council Meetings

Table of Contents

RATIONALE.....	2
POLICY STATEMENT	2
OBJECTIVES	2
Guiding Principles	2
1. City of Marion General Procedures.....	3
1.1 Council Meeting Close Time	3
1.2 Publication of Council Agenda	3
1.3 Late Items (Reports)	3
1.4 Council Member Verbal Communications.....	3
1.5 Council Committee Reporting Obligations	3
1.6 Moving Items “En Bloc”	
1.7 Visual or Audio Recordings.....	3
2. Commencement of Meetings and Quorums	4
3. Minutes.....	4
4. Questions.....	7
5. Petitions.....	8
6. Deputation	8
7. Motions.....	9
8. Amendments to Motions.....	11
9. Variations etc.....	12
10. Addresses by Members etc.....	12
11. Voting.....	12
12. Divisions	13
13. Tabling of Information	14
14. Adjourned Business	14
15. Short-term Suspension of Proceedings	14
16. Chief Executive Officer may submit report recommending revocation or amendment of council decision.....	15
17. Points of Order.....	15
18. Interruption of Meetings by Members	16
19. Interruption of Meetings by Others.....	17
20. Disruptive Behaviour	
21. Dealing with Disruptive Behaviour	

Code of Practice - Procedures at Council Meetings

22. Ability to Conduct Committee Meetings Electronically.....

23. DEFINITIONS 17

24. References

25. Review and Evaluation.....

Public Health Emergency: Electronic Participation in Council Meetings.....

RATIONALE

The role of a council is to manage its local area by acting as an informed representative and responsible decision-maker in the best interests of its community. Council can only make decisions and act through a majority vote of the Council (or Committee). The effectiveness of Council Meetings directly contributes towards accountability to the community.

Council meeting procedures are largely determined by the Local Government (Procedures at Meetings) Regulations 2013 (the Regulations). In addition to the requirements of the Regulations, this Code of Practice identifies a number of discretionary procedures adopted by Council for Council meetings.

POLICY STATEMENT

Procedures at Council meetings are regulated by the Local Government (Procedures at Meetings) Regulations 2013. In accordance with these Regulations, Council is able to set discretionary procedures pursuant to Regulation 6. This Code of Practice is made pursuant to this Regulation and has been passed by a two thirds majority of Council Members.

The provisions set out in this Code of Practice reflect the provisions of the Regulations (including numbering) except where Council has utilised its discretionary powers. Regulations that have been varied by Council under these powers are highlighted in **bold** in this document.

OBJECTIVES

Guiding Principles

Council's approach to the conduct of its meetings adopts the **Guiding Principles** contained within the Local Government (Procedures at Meetings) Regulations 2013 which state:

- Procedures should be fair and contribute to open, transparent and informed decision making;
- Procedures should encourage appropriate community participation in the affairs of the council;
- Procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting;
- Procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting.

PROCEDURES AT COUNCIL MEETINGS

1. City of Marion General Procedures

1.1 Council Meeting Close Time

Where Council meetings continue to 9.30pm, unless there is a specific motion adopted at the meeting to continue beyond this time, the meeting will be adjourned to a date and time specified as part of the motion.

1.2 Publication of Council Agenda

Council meeting Agendas will be uploaded to Council's website at least three clear days before the meeting and available for inspection upon request.

1.3 Late Items (Reports)

Late items (reports) listed on a circulated Agenda will be emailed and/or delivered to members prior to the scheduled meeting. Late reports will only occur where information has not been provided in time for the delivery of the Agenda and where an urgent Council decision is required.

1.4 Council Member Verbal Communications

Council Member has the right to speak for up to two minutes in the second meeting of Council every second month from February (with the exception of caretaker period).

1.5 Council Committee Reporting Obligations

Council Committees will report to Council in the form of the minutes from each committee meeting. The minutes will be received and noted. Any matters discussed by the Committee where a Council resolution is required is to be considered as separate resolutions to the receiving and noting of the Committee minutes.

1.6 Moving Items "En Bloc"

Items listed on the Agenda for Council consideration may be "moved en bloc".

1.7 Visual or Audio Recordings

Members of the public who wish to record audio or visual footage of a Council or Committee meeting must first obtain the approval of the Presiding Member.

Council employees may take visual footage (including photographs) for the purposes of Council business. Elected Members must seek and obtain approval from the Presiding Member, and permissions of all people included in footage, before taking visual footage (including photographs) and/or publishing images that feature any other individual.

An audio recording of each Council meeting (with the exception of matters where the public is excluded from attendance at a meeting) will be taken and published on the Public website.

2. Commencement of Meetings and Quorums

Regulation 7

- 2.1 A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.
- 2.2 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.
- 2.3 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.
- 2.4 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.
- 2.5 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 placed on display at the principal office of the council.

3. Minutes

Regulation 8

- 3.1 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.
- 3.2 No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.
- 3.3 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.

3.4 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; 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 including:
 - i. a question on notice asked by a Council Member of which five clear days notice has been given together with the reply provided (refer also to Clause 4.2(b) of this Code of Practice).
 - ii. if resolved by Council Members present at the meeting at which the question is asked, details of a question without notice together with the reply provided (refer also to Clause 4.5 of this Code of Practice).

iii. In the event that a division is called by a member, 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) (refer also to Clause 12.4 of this Code of Practice)

3.5 The minutes of relevant Council meetings will also include:

(a) Council Member communication reports to the following extent:

i. The Mayor's, Deputy Mayor's and Council Member reports (only the subject matter) where those reports have been provided in writing to the minute taker by 12 noon on the Wednesday next following the meeting.

ii. Types of activities to be included in reports are those attended by Council Members in their Representative or Civic capacity only. Examples include:

- Civic activities (e.g. citizenship ceremonies)
- Meetings with external bodies attended as Council Liaison
- Meetings with residents
- Training sessions attended

Attendance at Council meetings will not be recorded. Attendance at Development Assessment Panel or Committee meetings will be recorded.

(b) The name of a person or persons (representor) making a deputation. However, the details of the content of the deputation will not be included (refer also to Clause 6.9 of this Code of Practice).

(c) The time at which each item commences

3.6 Minutes will be forwarded by email to Council Members to confirm accuracy and then placed on Council's website by 5.00pm on the Friday next following the meeting, or at the latest, within five days after the meeting.

3.7 The minutes of the meetings will not include:

- (a) Apologies received from Council Members
- (b) Leave of Absences (except with the leave of the meeting)
- (c) Voting Patterns other than Divisions or as required by legislation

4. Questions

Regulation 9

- 4.1 A member may ask a question on notice by giving the Chief Executive Officer written notice of the question at least five clear days before the date of the meeting at which the question is to be asked.
- 4.2 If notice of a question is given under Clause 4.1:
- (a) the Chief Executive Officer must ensure that the question and answer 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 (refer also to Clause 3.4(n)(i) of this Code of Practice).
- 4.3 In relation to Questions with Notice, all questions and answers will be included in the agenda papers and the minutes therefore will not be read out at the relevant meeting.**
- 4.4 A member may ask a question without notice at a meeting.
- 4.5 Members are able to ask a maximum of three Questions without Notice at a Council meeting except with the consent of the meeting.**
- 4.6 The presiding member may allow the reply to a question without notice to be given at the next meeting.
- 4.7 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 (refer also to Clause 3.4(n)(ii) of this Code of Practice).
- 4.8 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.
- 4.9 Questions may be asked prior to the moving of a motion or during a debate on a motion for clarification purposes only. Such questions are not considered “questions without notice” as described in Clauses 4.4, 4.5, 4.7 and 4.8 of this Code of Practice.**
- 4.10 In asking a clarification question a member will not be considered to be speaking to the motion.**
- 4.11 Council Members may not express an opinion when seeking clarification but can provide factual / contextual background at the discretion of the Chair.**
- 4.12 A maximum of two clarification points may be asked by individual members in relation to each motion except with the consent of the presiding member.**
- 4.13 Members are encouraged to seek answers to questions prior to the Council meeting.**

5 Petitions

Regulation 10

5.1 A petition to the council must-

- (a) be legibly written or typed or printed; and
- (b) clearly set out the request or submission of the petitioners; and
- (c) include the name and address of each person who signed or endorsed the petition.
- (d) be addressed to the council and delivered to the principal office of the council.

5.2 If a petition is received as detailed in 5.1, the Chief Executive Officer must ensure that the petition or a statement as to the nature of the request or submission and the number of signatures is placed on the agenda for the next ordinary meeting of the council.

5.3 Where further investigation is required on issues raised in a petition, the petition will be provided to the next meeting of Council from receipt of the petition to note the petition and a report providing further detail will be provided to Council once investigations have been completed.

5.4 On initial receipt of the petition, a summary and the first page only will be provided to Council. When the matter is considered the entire petition will be attached to the report.

6 Deputation

Regulation 11

6.1 A person or persons wishing to appear as a deputation at a meeting must deliver (to the principal office of the council) a written request to the council.

6.2 The chief executive officer must transmit a request received as detailed in Section 6.1 to the presiding member.

6.3 The presiding member may refuse to allow the deputation to appear at a meeting.

6.4 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.

6.5 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.

6.6 The council may resolve to allow a deputation to appear despite a contrary ruling by the presiding member.

6.7 A council may refer the hearing of a deputation to a council committee.

6.8 A deputation must not exceed five minutes except with the consent of the meeting.

- 6.9 The name of the representor will be recorded in the minutes of a Council meeting however, the details of the content of the deputation will not be included (refer also to Clause 3.5(b) of this Code of Practice).**

7 Motions

Regulation 12

- 7.1** A member may bring forward any business in the form of a written notice of motion.
- 7.2** The notice of motion must be given to the chief executive officer at least five clear days before the date of the meeting at which the motion is to be moved.
- 7.3** A motion the effect of which, if carried, would be to revoke or amend a resolution passed since the last periodic election of the council must be brought by written notice of motion.
- 7.4** If a motion as detailed in Clause 7.3 is lost, a motion to the same effect cannot be brought-
- (a) until after the expiration of 12 months; or
 - (b) until after the next periodic election, whichever is the sooner.
- 7.5 Where a notice of motion has been given by a member who is not present at the meeting the notice of motion may be moved by any other member present at the meeting.**
- 7.6 Notice of motions cannot be added to on the night of the meeting where the notice of motion is presented. Additions to notices of motions will be dealt with separately as a motion without notice.**
- 7.7** Subject to the Act and these regulations, a member may also bring forward any business by way of a motion without notice.
- 7.8** 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.
- 7.9** 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.
- 7.10 A motion without notice will not be accepted, where in the opinion of the presiding member, the motion relates to a significant issue or substantive information is required in order to make an informed decision on the motion (Refer Clause 7.8 above). Such issues should be provided as written notices of motion.**
- 7.11** A motion will lapse if it is not seconded at the appropriate time.
- 7.12 A member moving or seconding a motion will speak to the motion at the time of moving or seconding the motion for no longer than two minutes (clause 10.1). If further time is required, it will be considered by the presiding member and granted at their discretion to a total maximum of five minutes.**

- 7.13 **If the motion is seconded, the common practice of the meeting will be to put the motion without further debate/discussion unless there is a speaker against the motion.**
- 7.14 **The common practice of the meeting will be to alternate speakers for and against the motion until the debate is complete.**
- 7.15 **At the conclusion of the debate, if a member who has not already spoken wishes to raise a new matter that has not been covered in previous debate/discussion or a matter considered of high importance, they will be permitted to speak for a maximum of two minutes.**
- 7.16 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.
 - (d) for the mover who may exercise a right to speak in closing the debate.
- for no longer than two minutes (Clause 10.1). The period of speaking may be extended with the consent of the presiding member.**
- 7.17 **In exercising the right of reply (Clause 7.16) the mover must confine the remarks to responding to the issues raised in the debate and not introduce new material.**
- 7.18 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.
- 7.19 A member who has not spoken in the debate on a question may move a formal motion.
- 7.20 A formal motion must be in the form of a motion set out in 7.17 (and no other formal motion to a different effect will be recognised).
- 7.21 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.

7.22 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).

7.23 A formal motion does not constitute an amendment to a substantive motion.

7.24 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 one member has spoken on the question.

7.25 A formal motion for adjournment must include the reason for the adjournment and the details for resumption.

7.26 Any question that lies on the table as a result of a successful formal motion under 7.20 lapses at the next general election.

7.27 The chief executive officer must report on each question that lapses under 7.25 to the council at the first ordinary meeting of the council after the general election.

8 Amendments to Motions

Regulation 13

8.1 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.

8.2 An amendment must be relevant to the motion and so framed that it forms a sensible alternative proposal. It must not be a direct negation of the original motion.

8.3 An amendment will lapse if it is not seconded at the appropriate time.

8.4 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.

- 8.5 If an amendment is lost, only one further amendment may be moved to the original motion.
- 8.6 If an amendment is carried, only one further amendment may be moved to the original motion.
- 8.7 **Amendments are to be provided to the minute taker in writing to ensure accuracy of recording.**
- 8.8 **Note a division can not be called on an amendment as an amendment to a motion is an alteration to the wording of a motion – it is not a motion in its own right.**

9 Variations etc.

Regulation 14

- 9.1 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.
- 9.2 The presiding member must immediately put the question for leave to be granted and no debate will be allowed on that question.

10 Addresses by Members etc.

Regulation 15

- 10.1 A member must not speak for longer than **two minutes** at any one time without leave of the meeting.
- 10.2 **Members are to speak through the Chair of the meeting when speaking to a motion.**
- 10.3 A member may, with leave of the meeting, raise a matter of urgency.
- 10.4 A member may, with leave of the meeting, make a personal explanation.
- 10.5 The subject matter of a personal explanation may not be debated.
- 10.6 The contribution of a member must be relevant to the subject matter of the debate.
- 10.7 **Members will address other members as Councillor during council meetings.**
- 10.8 **Members may choose to sit or stand when addressing the Council\meeting.**

11 Voting

Regulation 16

- 11.1 The presiding member, or any other member, may ask the chief executive officer to read out a motion before a vote is taken.

11.2 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.

11.3 A person who is not in his or her seat is not permitted to vote **unless extenuating circumstances exist, in which case the Council Member may be located elsewhere within the Chamber, but not in an area designated a public area.**

11.4 For the purpose of clause 11.3 extenuating circumstances are;

- infant or dependent care
- injury
- infirmity

12 Divisions

Regulation 17

12.1 A division will be taken at the request of a member.

12.2 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.

12.3 The division will be taken as follows-

- (a) the members voting in the affirmative will, until the vote is recorded, stand in their places; and
- (b) the members voting in the negative will, until the vote is recorded, sit in their seats; and
- (c) the presiding member will count the number of votes and then declare the outcome.

12.4 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).

12.5 **Members wishing to vote in the affirmative but are unable (to stand) due to extenuating circumstances, may indicate their affirmative vote by raising a hand or by indicating in some other unambiguous manner.**

12.6 Members voting in the negative, who are not currently in their seats due to extenuating circumstances may indicate their negative vote by raising a hand or by indicating in some other unambiguous manner.

12.7 A division cannot be called on an amendment to a motion as it is not a motion in its own right.

13 Tabling of Information

Regulation 18

- 13.1 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).
- 13.2 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.

14 Adjourned Business

Regulation 19

- 14.1 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 from the point at which it was adjourned.
- 14.2 If debate is 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 interrupted.
- 14.3 The Presiding Member can allow for new business to be dealt with prior to business adjourned from a previous meeting.**

15 Short-term Suspension of Proceedings

Regulation 20

- 15.1 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.
- 15.2 The Guiding Principles must be taken into account when considering whether to act in accordance with Clause 15.1.
- 15.3 If a suspension occurs in accordance with Clause 15.1
- (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.

16 Chief Executive Officer may submit report recommending revocation or amendment of council decision

Regulation 21

- 16.1 The Chief Executive Officer may submit a report to the council recommending the revocation or amendment of a resolution passed since the last general election of the council.
- 16.2 The Chief Executive Officer must ensure that the report is placed on the agenda for the meeting at which the report is to be considered.

17 Points of Order

Regulation 28

- 17.1 The presiding member may call to order a member who is in breach of the Act or these regulations.
- 17.2 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.
- 17.3 A point of order takes precedence over all other business until determined.
- 17.4 The presiding member will rule on a point of order.

17.5 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.

17.6 The presiding member is entitled to make a statement in support of the ruling before a motion under 17.5 is put.

17.7 A resolution under 17.5 binds the meeting and, if a ruling is not agreed with-

28.7.1 the ruling has no effect; and

28.7.1 the point of order is annulled.

18 Interruption of Meetings by Members

Regulation 29

18.1 A member of a council must not, while at a meeting-

28.7.1 behave in an improper or disorderly manner; or

28.7.1 cause an interruption or interrupt another member who is speaking.

18.2 Clause 18.1(b) does not apply to a member who is-

28.7.1 objecting to words used by a member who is speaking; or

28.7.1 calling attention to a point of order; or

28.7.1 calling attention to want of a quorum.

18.3 If the presiding member considers that a member may have acted in contravention of Clause 18.1, the member must be allowed to make a personal explanation.

18.4 Subject to complying with Clause 18.3, the relevant member must leave the meeting while the matter is considered by the meeting.

18.5 If the remaining members resolve that a contravention of Clause 18.1 has occurred, those members may, by resolution-

28.7.1 censure the member; or

28.7.1 suspend the member for a part, or for the remainder, of the meeting.

18.6 A member who-

28.7.1 refuses to leave a meeting in contravention of Clause 18.4; or

28.7.1 enters a meeting in contravention of a suspension under

Clause 18.5, is guilty of an offence and the Maximum penalty is \$1,250

19 Interruption of Meetings by Others

Regulation 30

19.1 A member of the public who is present at a meeting of a council must not-

28.7.1 behave in a disorderly manner; or

28.7.1 cause an interruption.

Maximum penalty: \$500

20 Disruptive Behaviour

20.1 Disruptive behaviour is to be assessed on a continuum. It amounts to more than strong emotions or opinions expressed during the course of discussion in a public forum and it is more than the expression of controversial and/or extreme points of view.

20.2 Generally, 'disruptive behaviour' is that which interferes with the business of the Council. The persistence, severity, and nature of the behaviour are key factors in determining the level of disruptiveness and the degree of tolerance with the perpetrator(s) of the disruptive behaviour and the nature of the action that Council will take to address the behaviour. Examples include (but are not necessarily limited to):

20.2.1. talking when others are speaking;

20.2.2. constant interjection, particularly when the Presiding Member or Elected Members present at the Council Meeting are speaking, but also when Council staff, consultants or the public are addressing the Council Meeting;

20.2.3. refusal to accede to a Presiding Member's lawful and reasonable instructions, particularly when asked to desist from disruptive behaviour;

20.2.4. verbal badgering;

20.2.5. frequent interruptions (including of a non-verbal nature);

20.2.6. audible mobile phone use in a public forum;

20.2.7. swearing or using derogatory and demeaning language;

20.2.8. unreasonably monopolising public opportunities for discussion and refusal to give up the floor to allow other members of the public to ask questions;

20.2.9. stalking or intimidation;

20.2.10. verbal or physical threats or any other aggressive or threatening behaviour towards either Elected Members, Council staff or other members of the public;

20.2.11. erratic, or otherwise odd or unusual behaviour;

20.2.12. excessive noise-making;

20.2.13. appearing to be under the influence of intoxicating alcohol or drug use; and

20.2.14. physical aggression to other people or property.

20.3 Council notes that some of the above behaviours constitute a criminal offence, and Council will take appropriate action, as required, in such circumstances, including by calling the South Australia Police (SAPOL) and/or making a report to SAPOL.

21 Dealing with Disruptive Behaviours

21.1 Decisions about whether disruptive behaviour is occurring, and the appropriate action to take in the circumstances, will be made by the Presiding Member, in accordance with this Code of Practice.

21.2 If, in the view of the Presiding Member, the behaviour is considered to be disruptive, the person (or persons) will be directed to cease such behaviour immediately.

21.3 Should the behaviour continue, and is, in the view of the Presiding Member, disrupting the orderly conduct of Council business, the Council may adjourn the Council Meeting for a stated period of time. The details of the adjournment (including the reasons) must be included in the minutes.

21.4 During that adjournment the Presiding Member and the Chief Executive Officer (CEO) (or delegate) will discuss the appropriate management of the situation with the person (or persons) involved, advising them of their statutory obligations and requesting that they cease disrupting the Council Meeting. The Elected Members will not engage with the person (or persons) involved during this time but, rather, will remove themselves from the situation while the Presiding Member and the CEO discuss the matter with the disruptive person(s).

21.5 If, after resuming the Council Meeting, the disruptive behaviour continues, the Presiding Member may take one or more of the following actions:

21.5.1. Request the assistance of a member of SAPOL to attend the Council Meeting and remove the offending person(s) pursuant to Section 18A(2) of the Summary Offences Act 1953, and/or any other relevant legislative provision, and, in conjunction with the CEO seek to have the person(s) prosecuted for a breach of Section 18A(1) of the Summary Offences Act 1953, and/or any other relevant legislative provision that may have been breached in the circumstances.

21.5.2. In the event that a member of SAPOL is not immediately available to attend, the Council

Code of Practice - Procedures at Council Meetings

Meeting will remain adjourned until such time as a member of SAPOL can attend, or after a reasonable period of time has elapsed (as determined by the Presiding Member), the Council Meeting will be adjourned to a time and date to be fixed.

21.5.3. As soon as practicable following the Council Meeting (that has either naturally concluded or has been adjourned in accordance with 21.3), if a member of SAPOL has been unable to attend, the Presiding Member, in conjunction with the CEO, will arrange for a comprehensive report to be made to SAPOL regarding the behaviour exhibited and setting out the identity of the person(s) (if known).

21.5.4. The Council will also consider any other legal avenues that may be open to it, including making application for an intervention order to restrict a person's access to Council land and/or Council meetings as may be appropriate.

21.6 In all cases, the Council will, upon the outcome of any successful prosecution or other civil action, seek to recover from the offending person or persons, its full indemnity costs in pursuing the matter.

21.7 Upon the outcome of any successful prosecution as part of the sentencing process, the Council will in all cases:

21.7.1. make application to the Court for an order restraining the offending person(s) from attending at any Council Meeting for a period of no less than six calendar months; and

21.7.2. make submissions to the Court that a criminal conviction be recorded against the offending person(s).

21.8 Nothing in this Policy prevents an Elected Member, Council employee or member of the public from making their own report in relation to disruptive behaviours to the appropriate public authority, and taking any lawful action they consider appropriate in the circumstances.

22 Ability to Conduct Committee Meetings Electronically

Section 90(7a)

22.1 Committee Meetings of Council established under Section 41 of the *Local Government Act 1999* may be held via telephone or other electronic means:

- (a) When notice is given by the Presiding Member of the intent to hold the meeting electronically in the circumstance the meeting cannot be held in person. Notice must be given at the time the agenda is made available or earlier;
- (b) Due to individual circumstances where a Committee Member is unable to attend, they may after seeking approval from the Presiding Member and confirmed by the CEO join the meeting electronically;
- (c) Whilst participating in a Committee Meeting in accordance with this clause a Committee Member shall be considered as being present at the meeting for all purposes.

20.23 DEFINITIONS

In these procedures, unless the contrary intention appears-

"Act" means the *Local Government Act 1999*;

"clear days" means days, inclusive of Saturdays, Sundays and public holidays, which do not include:

- the day on which the notice is given
- the day on which the meeting occurs

"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;

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

"formal motion" means a motion-

- (a) that the meeting proceed to the next business; or
- (b) that the question be put; or
- (c) that the question lie on the table; or
- (d) that the question be adjourned; or
- (e) that the meeting be adjourned¹;

"member" means a member of the council or council committee (as the case may be);

"point of order" means a point raised to draw attention to an alleged breach of the Act, Regulations or this Code of Practice in relation to the proceedings of a meeting;

"presiding member" means the person who is the presiding member of a council or council committee (as the case may be) and includes any person who is presiding/chairing at a particular meeting.

"written notice" means legibly hand written or typed in either hard copy or email form.

21.24 REFERENCES

Local Government Act 1999

Local Government (Procedures at Meetings) Regulations 2013

22.25 REVIEW AND EVALUATION

Review 2020/21

Public Health Emergency: Amendments to Allow 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.

Alterations to this Code of Practice to Facilitate Electronic Participation

Definitions

Act means the *Local Government Act 1999*.

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.

Code of Practice - Procedures at Council Meetings

Attendance at Council Meetings

Members of the Council may participate in a meeting of the Council by electronic means.

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.

Quorum

Regulation 7

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.

A quorum is taken to be present even if 1 or more Council members constituting the quorum is present by electronic means.

Leave of the Meeting

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.

A division may be called in relation to the vote.

Adjourned Meetings

Regulation 7

If a meeting is adjourned to another day, the Chief Executive Officer must:

- (a) give notice of the adjourned meeting to each member of the Council setting out the date, time and place of the meeting;
- (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.

Code of Practice - Procedures at Council Meetings

Minutes

Regulation 8

On confirmation of the minutes the presiding member may initial or sign the minutes in hardcopy or electronically.

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.

Petitions

Regulation 10

A petition must be addressed to the Council and delivered to the Council by means determined by the Chief Executive Officer as follows:

- Via post - PO Box 21, Oaklands Park SA 5046
- Via email – council@marion.sa.gov.au

Deputations

Regulation 11

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 as set out below) a written request to the Council.

- Via post - PO Box 21, Oaklands Park SA 5046
- Via email – mayor.ea@marion.sa.gov.au

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

The Chief Executive Officer will (with respect to a request that has not been refused), when informing the person or persons who requested the deputation of the outcome of their request, indicate the method by which the person or persons are to appear at the meeting.

Voting

Regulation 16

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 chief executive officer to read out a motion or amendment before a vote is taken.

Code of Practice - Procedures at Council Meetings

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.

Divisions

Regulation 17

A division is taken as follows:

- (a) except for a member participating in a meeting by electronic means which has audio only:
 - (i) the members voting in the affirmative will, until the vote is recorded, stand in their places;
 - (ii) the members voting in the negative will, until the vote is recorded, sit in their seats;
 - (iii) the presiding member will count the number of votes and then declare the outcome;
- (b) 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.

Form of Participation by Electronic Means

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.

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.

Expiry of Public Health Emergency Amendments

In accordance with Section 302B(2)(d)(ii), the amendments have effect until 28 days after the cessation of all relevant declarations relating to the emergency to which the notice relates.

COVID-19 - Informal Gatherings Policy

Originating Officer	Unit Manager Governance and Council Support - Jaimie Thwaites
Corporate Manager	Manager Corporate Governance - Kate McKenzie
General Manager	General Manager City Services - Tony Lines
Report Reference	SGC200427R03

REPORT OBJECTIVE

To provide Council with proposed amendments to the Informal Gatherings Policy as a result of the COVID-19 situation.

EXECUTIVE SUMMARY

The *Electronic Participation in Council Meetings Notice (No 1) 2020* (Notice) is the first Notice made by the Minister for Transport, Infrastructure and Local Government in exercise of his new emergency power under section 302B of the Local Government Act 1999. The Notice allows for council members to participate in Council meetings (including informal gatherings) by electronic means and for meetings to be live streamed in order to satisfy the requirement that a meeting be conducted in a place open to the public. A copy of the Notice is available from the [South Australian Government Gazettes \(No.26\)](#).

The Informal Gatherings Policy has been updated with recommended amendments to enable the meetings to be conducted by electronic means. The amended document for Council endorsement is included as Attachment 1.

RECOMMENDATION

That Council:

- 1. Adopts the Informal Gatherings Policy as attached as Attachment 1 to this report.**

DISCUSSION

Within Section 90(1) of the Local Government Act 1999 (the Act) there is a general requirement that all Council and Committee meetings are to be held in a place open to the public (except in special circumstances). Section 90(8) of this Act does allow Council and Committee Members to meet outside of formally constituted meetings on the following provision:

‘provided that a matter which would ordinarily form part of the agenda for a formal meeting of a council or council committee is not dealt with in such a way as to obtain, or effectively obtain, a decision on the matter outside a formally constituted meeting of the council or council committee.’

Section 90(8a) of the Act provides that an informal gathering or discussion can only be held if it complies with a Council adopted policy on the holding of the informal gathering or discussion.

The *Electronic Participation in Council Meetings Notice (No 1) 2020* (Notice) is the first Notice published in the Government Gazette on 31 March 2020 by the Minister for Transport, Infrastructure and Local Government in exercise of his new emergency power under section 302B of the *Local Government Act 1999* (LG Act). A copy of the Notice is available at the [South Australian Government Gazettes \(No. 26\)](#).



Section 302B of the LG Act empowers the Minister Transport, Infrastructure and for Local Government to vary or suspend the operation of provisions of the Act where it is reasonably necessary during a public health emergency (where relevant declarations have been made).

This Notice enables some or all council members to participate in a Informal Gathering by electronic means, provided that each participating member is capable of communication with every other participating member during the meeting.

This Notice also provides variations to the LG Act to enable Council meetings (including Informal Gatherings) to be live streamed in order to satisfy the requirement that a meeting be conducted in a place open to the public. If the CEO (or nominee) takes reasonable steps to provide a live stream but is unable to provide a live stream, then a recording may be placed on the council's website instead, as soon as practicable after the meeting.

If the CEO takes reasonable steps but can provide neither a live stream nor a recording, and no other reasonable step will allow the meeting to be held in a place open to the public, then the obligation to hold the meeting in a place open to the public is suspended (though the CEO or nominee must publish a statement explaining what reasonable steps were taken).

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).

Ward briefings are 'confidential informal discussions' as they are a planning session of a general or strategic nature and therefore would not be live streamed.

Attached as Attachment 1 is a copy of the Informal Gatherings Policy with the suggested amendments "marked up".

Attachment

#	Attachment	Type
1	Attachment 1 - Informal Gatherings Policy	PDF File

1. RATIONALE

Open and transparent meetings of Council underpin representative democracy and ensure public confidence in council's decision-making processes. Informal gatherings, where appropriate, provide a valuable opportunity to enhance the decision-making processes by providing opportunities for council members to become better informed on issues and seek further clarification.

2. POLICY STATEMENT

This Policy provides for council members to have sufficient opportunity to conduct planning sessions, to receive informal briefings and educational sessions, and convene other informal gatherings without prejudicing the requirements for openness and transparency as required by the Local Government Act 1999 (the Act).

Section 90(8) of the Act allows informal gatherings to be held provided that the discussion does not lead to a decision, or effectively obtain a decision, on a matter that would ordinarily be dealt with at a meeting of Council. This policy reflects the intention of the legislation for informal gatherings to be used for briefing, planning and educational sessions and is aimed at avoiding any perception that informal gatherings will be used to build consensus for council agenda items.

3. OBJECTIVES

"Informal gatherings" are gatherings of some or all Council Members to discuss council business that are arranged by the council (either by the CEO or by the elected council) other than proceedings which are subject to formal notification and minuting e.g. General Council and Committee Meetings. Section 90(8) of the Act provides a list of examples of informal gatherings:

- 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.

Informal gatherings will be used solely for the purpose of generating ideas, sharing information and seeking further information on issues. Staff may receive guidance from informal gatherings as to what topics and information is to be presented to formal meetings but informal gatherings are not to be used for building consensus positions, or making council decisions in any way.

4. POLICY SCOPE AND IMPLEMENTATION

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

The Local Government (General) Regulations 2013 defines 'designated informal gathering or discussion' as:

an event organised and conducted by or on behalf of the council or chief executive officer 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.

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'.

General Business of the Council

Informal gatherings of Council Members, or Council Members and Council staff are, by their nature, a non-compulsory meeting of the council. All council members are however encouraged to attend these sessions. Attendance will be noted and included in the annual report.

Informal gatherings will not be used for making council decisions or to stifle debate on issues that may subsequently be dealt with by the council at a formal meeting.

Timing of, and Access to, Informal Gatherings of Council

For all designated informal gatherings or discussions, 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.

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. The declaration must be made prior to the commencement of the designated informal gathering or discussion by the Council or Chief Executive Officer.

For all designated informal gatherings public access will be determined on a case by case basis. The council is aware of the need to balance openness and transparency with opportunities for private discussions between council members and council members and staff to progress Council business.

The Council or Chief Executive Officer may 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 attachment).

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 Chief Executive Officer.

Procedures applying to designated informal gatherings or discussions

Informal gatherings may nominate the Mayor, any other Council Member or any staff member to chair the gathering. Informal gatherings will be chaired informally.

Both the CEO and the person chairing the meeting are responsible for ensuring informal gatherings are conducted in accordance with the Act.

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, relevant staff as required and any other person invited to attend by the Council or the Chief Executive Officer.

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 the informal gathering or discussion will only be closed to the public while these confidential matters are considered. The designated informal gathering or discussion will be open to the public for any non-confidential items that are considered.

The Code of Conduct for Council Members applies for informal gatherings and breaches of the Code during or associated with informal gathering will be dealt with under the Council Members Code of Conduct Procedure For Investigating Complaints.

Documentation relating to informal gatherings

Information / draft documentation may be provided to Council Members to accompany the discussion. Such documents are considered internal working documents of council, and therefore any requests for copies of the documentation will be considered on a case by case basis.

Informal gatherings will not involve a formal minute taking process.

Interpretation

This Policy must be enacted in conjunction with any legislative change or regulations.

AVAILABILITY OF THE POLICY

The public may inspect a copy of this Policy, without charge, at the Council offices during office hours.

A copy of the Policy will be made available on the Council Website (www.marion.sa.gov.au).

Further enquiries about the Policy should be directed to the Manager Corporate Governance or by telephoning Council on 8375 6600.

5. REFERENCES

Local Government Act 1999

Local Government (Accountability and Governance) Amendment Bill 2015

Code of Practice – Access to Council Meetings and Documents

Code of Conduct for Council Members

6. REVIEW AND EVALUATION

This Policy will be reviewed within 12 months after a General Election and as required.

Attachment **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.

Attachment 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 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.

The alterations to this Informal Gatherings 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.

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 meetings of the Council.

Definitions

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

Attendance at Informal Gatherings

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

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:

- (a) can hear all other members present at the informal gathering; and
- (b) can be heard by all other members present at the informal gathering.

Form of Participation by Electronic Means

Where:

- (a) a Council member is to participate in a Council informal gathering by electronic means; and
- (b) 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
- (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.

Public Access to Designated Informal Gatherings

During 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 minutes will not be recorded.

CONFIDENTIAL ITEMS**Cover Report - Confirmation of Confidential Minutes of the Special Review and Selection Committee meetings held on 24 March 2020 and 30 March 2020**

Originating Officer	Governance Officer - Angela Porter
Corporate Manager	Manager People and Culture - Steph Roberts
General Manager	Chief Executive Officer - Adrian Skull
Report Reference	SGC200427F01

RECOMMENDATION

That pursuant to Section 90(2) and 90(3)(a) of the Local Government Act 1999, Council orders that all persons present with the exception of the following persons: Adrian Skull, Iliia Houridis, Sorana Dinmore, Warwick Deller-Coombs, Alex Wright, Jaimie Thwaites and Kate McKenzie, be excluded from the meeting as Council receives and considers information relating to the Confidential Minutes of the Special Review and Selection Committee Meetings held on 24 March 2020 and 30 March 2020 upon the basis that the Committee is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to the personal affairs of any persons.

Confirmation of Confidential Minutes of the Special Review and Selection Committee meetings held on 24 March 2020 and 30 March 2020

CONFIDENTIAL

Reason For Passing This Resolution:

Local Government Act (SA) 1999 S 90 (2) 3(a): information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

Cover Report - Confirmation of Confidential Minutes of the Infrastructure and Strategy Committee meeting held on 7 April 2020

Originating Officer	Executive Assistant to General Manager Corporate Services - Louise Herdegen
Corporate Manager	Manager Corporate Governance - Kate McKenzie
General Manager	General Manager City Development - Ilia Houridis
Report Reference	SGC200427F02

RECOMMENDATION

That pursuant to Section 90(2) and (3)(b) of the Local Government Act 1999, the Council orders that all persons present, with the exception of the following persons: Adrian Skull, Ilia Houridis, Sorana Dinmore, Tony Lines, Jaimie Thwaites and Kate McKenzie be excluded from the meeting as Council receives and considers information relating to the Confidential Minutes of the Infrastructure & Strategy Committee Meeting held on 7 April 2020 upon the basis that the Committee is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to the personal affairs of any persons.

Confirmation of Confidential Minutes of the Infrastructure and Strategy Committee Meeting held on 7 April 2020

CONFIDENTIAL

Reason For Passing This Resolution:

Local Government Act (SA) 1999 S 90 (2) 3(b) (i) and (ii): 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.

Cover Report - Review and Selection Committee - Appointment of Independent Council Assessment Panel (CAP) Members

Originating Officer	Team Leader - Planning - Alex Wright
Corporate Manager	Manager Development and Regulatory Services - Warwick Deller-Coombs
General Manager	General Manager City Development - Ilia Houridis
Report Reference	SGC200427F03

RECOMMENDATION

That pursuant to Section 90(2) and 90(3)(a) of the Local Government Act 1999, the Review and Selection Committee orders that all persons present with the exception of the following persons: Adrian Skull, Ilia Houridis, Tony Lines, Sorana Dinmore, Steph Roberts, Warwick Deller-Coombs, Alex Wright, Jaimie Thwaites and Kate McKenzie, be excluded from the meeting as the Committee receives and considers information relating to the Appointment of Independent Council Assessment Panel Members upon the basis that the Committee is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to the personal affairs of any persons.

Review and Selection Committee - Appointment of Independent Council Assessment Panel (CAP) Members

CONFIDENTIAL

Reason For Passing This Resolution:

Local Government Act (SA) 1999 S 90 (2) 3(a): information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

Cover Report - Marion Golf Course Expression of Interest

Originating Officer	Community Facilities Planner - Sean O'Brien
Corporate Manager	Manager City Property - Thuyen Vi-Alternetti
General Manager	General Manager City Development - Ilia Houridis
Report Reference	SGC200427F04

RECOMMENDATION

That pursuant to Section 90(2) 3(d) (i) and (ii) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Adrian Skull, Tony Lines, Ilia Houridis, Sorana Dinmore, Kate McKenzie, Craig Clarke, Thuyen Vi-Alternetti, James O'Hanlon and Jaimie Thwaites, be excluded from the meeting as the Council receives and considers information relating to Marion Golf Course Expression of Interest, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to commercial information, the disclosure of which 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 would on balance be contrary to the public interest.

Marion Golf Course Expression of Interest

CONFIDENTIAL

Reason For Passing This Resolution:

Local Government Act (SA) 1999 S 90 (2) 3(d) (i) and (ii) : 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.

Cover Report - Edwardstown Soldiers Memorial Community Club

Originating Officer	Unit Manager Sport & Recreation Facilities - James O'Hanlon
Corporate Manager	Manager City Property - Thuyen Vi-Alternetti
General Manager	General Manager City Development - Ilia Houridis
Report Reference	SGC200427F05

RECOMMENDATION

That pursuant to Section 90(2) 3(d) (i) and (ii) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Adrian Skull, Tony Lines, Ilia Houridis, Sorana Dinmore, Kate McKenzie, Craig Clarke, Thuyen Vi-Alternetti, James O'Hanlon and Jaimie Thwaites, be excluded from the meeting as the Council receives and considers information relating to Edwardstown Soldiers Memorial Community Club, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to commercial information, the disclosure of which 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 would on balance be contrary to the public interest.

Edwardstown Soldiers Memorial Recreation Ground Request for Proposals for Management Services

CONFIDENTIAL

Reason For Passing This Resolution:

Local Government Act (SA) 1999 S 90 (2) 3(d) (i) and (ii) : 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.

Cover Report - SRWRA Information Report (Confidential) - Board Meeting 3 February 2020

Originating Officer	Governance Officer - Victoria Moritz
Corporate Manager	Manager Corporate Governance - Kate McKenzie
General Manager	General Manager City Services - Tony Lines
Report Reference	SGC200427F06

RECOMMENDATION

That pursuant to Section 90(2) 3(b) (i) and (ii) and 3(d) (i) and (ii) of the Local Government Act 1999, the Council orders that all persons present, with the exception of the following persons: Adrian Skull, Tony Lines, Ilia Houridis, Sorana Dinmore, Kate McKenzie and Jaimie Thwaites be excluded from the meeting as the Council receives and considers information relating to SRWRA Information Report (Confidential) - Board Meeting 3 February 2020 upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to commercial information, the disclosure of which 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 would on balance be contrary to the public interest.

SRWRA Information Report (Confidential) - Board Meeting 3 February 2020**CONFIDENTIAL****Reason For Passing This Resolution:**

Local Government Act (SA) 1999 S 90 (2) 3(d) (i) and (ii) : 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.

Local Government Act (SA) 1999 S 90 (2) 3(b) (i) and (ii): 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.

Cover Report - Disclosure Incident

Originating Officer	General Manager Corporate Services - Sorana Dinmore
Corporate Manager	N/A
General Manager	Chief Executive Officer - Adrian Skull
Report Reference	SGC200427F07

RECOMMENDATION

That Pursuant to Section 90(2) and (3)(h) of the Local Government Act 1999, Council orders that all persons present, with the exception of the following persons: Adrian Skull, Sorana Dinmore, Ilia Houridis, Tony Lines, Kate McKenzie, Akos Szonyi and Jaimie Thwaites, be excluded from the meeting as the Council receives and considers legal advice relating to a disclosure incident, on the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential.

Disclosure Incident

CONFIDENTIAL

Reason For Passing This Resolution:

Local Government Act (SA) 1999 S 90 (2) 3(h): legal advice.



CORPORATE REPORTS FOR INFORMATION/NOTING - Nil

OTHER BUSINESS

MEETING CLOSURE

Council shall conclude on or before 8.30pm unless there is a specific motion adopted at the meeting to continue beyond that time.