



Proposed Amendments to the Local Government (Meeting Procedures) Regulations

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Introduction

The Local Government Association of Tasmania (LGAT) is the representative body of Local Government in Tasmania. Established in 1911, the LGAT is incorporated under the Local Government Act 1993 with membership comprising 28 of the 29 Tasmanian councils.

The objectives of the Association are:-

- To promote the efficient administration and operation of Local Government in the State of Tasmania;
- To watch over and protect the interests, rights and privileges of municipal Councils in the State of Tasmania;
- To foster and promote relationships between Local Government in the State of Tasmania with both the Government of Tasmania and the Government of the Commonwealth of Australia;
- To represent the interests of the members of the Association generally, and in such particular matters as may be referred to the Association by its members; and
- To provide such support services to the members of the Association as the Association may by resolution in meeting determine.

General Comments

Thank you for the opportunity to provide further comment on the proposed amendments as well as consideration of emerging issues. There is a high level of agreement with most of the issues raised. This submission will focus on those areas where there were points of difference or suggestions raised.

Specific Comments

Issue	LGAT Comment
1. Virtual Attendance at Council Meetings	<p>It would be fair to say, that the majority of councils still feel that this should not be allowed until a number of specific issues (as outlined in our 2014 submission) are considered and addressed. These include defining the circumstances that would justify the use of virtual attendance, the period of notice required of a councillor, the ability to deal with defined 'emergency' situations, a cap on the individual use of the virtual attendance option, a definition of 'instant electronic communication' and what forms are deemed sufficient for purpose.</p> <p>However two elected members and two councils made specific representations, seeking that the opportunity not be closed off with one suggesting at least the option to opt in under s37 of the Regulations "A council may determine any other procedures relating to meetings it considers appropriate".</p> <p>All argued that prohibiting virtual attendance on the basis of technology uncertainty is extreme and</p>

	<p>that virtual attendance should be allowed on a limited basis in special circumstances decided by the council in response to a formal request of an elected member. Virtual attendance at meetings is accepted in many other areas of business, volunteering and medicine so it seems inequitable that those wanting to maintain involvement in council business are denied the opportunity because of physical location.</p> <p>The reasonable expectation that Aldermen are present active and accessible within the community that they serve is the underlying objective in preferring/ requiring meeting attendance in person. Notwithstanding this, it is considered that it would be useful for Councils to have the ability to enable such participation to occur and there is scope to place some limitation on an Alderman's use of electronic meeting attendance (ie based on extenuating circumstances, temporary in nature limitation on the extent of the periods of use etc) so that it is not able to be used as a simple alternative to the more representative and favourable "physical" attendance at meetings.</p> <p>One suggestion was that the ability to attend virtually be confined to a) video-conferencing (not teleconferencing) and b) in relation to special meetings which cannot be planned for in advance.</p> <p>Discretion on the availability of remote meeting attendance should be left to the Council. This discretion could follow the principles and procedures applicable to leave of absence applications where such attendance is sought in advance and that the Council is then able to overview the necessity and/or reasonableness of the request.</p> <p>One council suggested that in certain emergency situations there should be the ability to make decisions electronically (a deemed full council meeting) and proposed draft regulations. These have been sent separately.</p>
<p>3. Public Notification</p>	<p>While in general there was agreement, the following issues were noted:</p> <p>There should be clarification that the single notification applies to all meetings for the 12 month period.</p> <p>It was noted by one Council, that while this works for Ordinary Meetings, Committee meeting dates are not always known twelve months in advance, particularly in smaller councils so there needs to be a viable alternative.</p>

	<p>One council suggested that the provision should be more flexible with regard to requirement to advertise ordinary committee meetings 12 months in advance – they suggested s35 amendment to a) as soon as practicable but at least 4 days before the next ordinary meeting, re to be circulated to all councillors.</p> <p>One council felt strongly that such an amendment will be interpreted negatively as an attempt to stifle opportunities for debate and that the expenditure involved is not excessive.</p>
<p>6. Role of the Chairperson</p>	<p>One council requested consideration of an ability for the Mayor to delegate the chairing of the meeting to the Deputy Mayor even when the Mayor is in attendance. It would provide the opportunity for the Mayor to participate in meetings without having to step down from the chair as is currently the case. It would provide an opportunity for the Deputy Mayor to learn the process of chairing meetings with the Mayor in attendance for guidance or conversely it would provide the opportunity for an experienced Deputy Mayor to provide guidance to a new Mayor by being able to chair a meeting in the presence of the Mayor.</p> <p>It probably only needs to be a single line that says something like - <i>The Mayor may delegate the role of chair to the Deputy Mayor for any meeting whether the Mayor is in attendance or not.</i></p>
<p>7. Adjournment of Meetings</p>	<p>Members were fairly evenly divided in relation to this issue and a preference for Option 1 or 2. Those that favoured option one felt the adjournment could be confirmed by a simple majority. Burnie City Council already practices the seeking of a resolution of council to adjourn.</p> <p>One view was that the Mayor should only be legitimately empowered to adjourn the meeting in circumstances where they have lost control of the meeting as a consequence of either elected members or member of the public in attendance being disruptive and not complying with lawful direction of the Mayor - or by councils resolution authorising such adjournment with a requirement to state and record the reasons for the adjournment and where and when the meeting is adjourned to.</p>

Those that favoured the status quo noted that the power should only be used when it is reasonable, in good faith and having regard to proper purpose and that the reason for the adjournment should be clearly identified and recorded in the minutes (as per s13(5)). There was a feeling that it was unreasonable to change the Regulations to fix a recent and isolated problem.

One council suggested the inclusion of the words "the business of the meeting" – allowing adjournment of an item but also allowing for remainder of business to occur.

Another council expressed concern with the literal interpretation of the statement in the discussion paper that 'if the meeting is adjourned the next meeting is a continuation of the meeting'. The concern is whether the term next meeting refers to the next meeting of the Council or just refers to the resumption of the adjourned meeting.

The concern arises due to the terminology used in the Regulation which refers, in regulation 13(2), to 'the business of the meeting not then disposed is given precedence at the resumption of the adjourned meeting'. This regulation has also been amended to remove a reference that the adjourned meeting could also be resumed at the next Ordinary Meeting.

Is it intended that the adjourned meeting is resumed as a stand-alone meeting and no longer to be absorbed in an Ordinary Meeting? If so, then the unfinished business of the adjourned meeting is the only business of the meeting and there is no need for a reference to 'given precedence'?

Does 'given precedence' mean that an adjourned meeting must be resumed prior to the next Ordinary Meeting of Council? If the adjourned meeting can be resumed within an Ordinary Meeting, does 'given precedence' mean it has to be the next Ordinary Meeting or can it be a subsequent meeting?

If it has to be the next Ordinary Meeting, if the matter is still not ready to be resolved (for example, legal or technical advice has not yet been received) does the item have to be listed and then adjourned or deferred again?

Does 'given precedence' mean that the adjourned business has to be dealt with first before the remainder of the Ordinary Meeting or just has to be given precedence to be placed on the Agenda

	<p>and can be scheduled by the General Manager at the appropriate time in the meeting?</p> <p>If it is a closed item, does it have to precede any business on the Agenda (i.e. prior to the open meeting) or just any other items on the closed Agenda?</p> <p>One issue raised was that Regulation 13 as currently stands is too vague and open to manipulation with no reason required to be given for the adjournment.</p> <p>There was concern that in requiring a majority agreement to the adjournment (simple or absolute) there was then limited ability to deal with urgent or emergency situations promptly.</p> <p>LGAT suggests on the basis of the mixed feedback received that the status quo be maintained in relation to power of the Mayor to adjourn but that greater direction be given about under what circumstances it be used and that there be a requirement for the Chair to declare the reason for the adjournment.</p>
<p>8. Closed Meetings</p>	<p>A clear majority of members supported maintenance of the status quo.</p> <p>A number of councils queried the purpose and origin of the clarification "that the General Manager is to liaise with the Mayor in preparing the agenda for a council meeting".</p> <p>They asked, does this refer to the whole agenda or only Regulation 15 matters? Does this infer that the Mayor has the ability to direct what matters are or are not placed on the agenda. There were concerns relating to where the 'final say' sat and that this amendment could blur roles.</p>
<p>Other</p>	<p>Special Meetings: It was suggested that for the sake of clarity s4(7) should make it clear that the request is to be by a majority of councillors, with similar to apply to committee meetings 5 (2). That is clarify the matter through both better wording and combination of clauses 6 and 7.</p> <p>One council felt that the amendments should remove the ability of the Chair to waive the requirement for a seconder and that consequently s16(3) 8a should be amended to delete 'if a seconder was required' and the wording of s16(9) should be 'must' not 'may'. The reason for this direction was not clear.</p>

	<p>One council suggested the Questions without Notice should be recorded in the Minutes.</p> <p>One council suggested that in relation to motions, (Item 9) that there should be consideration of extending the timeframe from 7 to 8 days. They noted that they find it difficult to meet their agenda preparation and distribution timeline if it is received late on the day and it is a complex matter that requires research or investigation.</p> <p>It was noted in relation to s11(4) regarding a lack of a quorum due to pecuniary interests that in general this will not be implementable, as often advice on interests is only provided at the meeting.</p> <p>One council raised issues with the definition of Pecuniary Interests but it is noted that this would require amendment to the Act and so is for noting purposes only and has been forwarded separately. They do not support the change to Regulation 3 as posited.</p> <p>There is a need to distinguish 'Minutes' and 'Draft Minutes' appropriately in the Regulations.</p>
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