

Circular Details	20-09 / 25 March 2020 / A696524
Previous Circular	20-06 Novel Coronavirus (COVID-19) Development Updates
Who should read this	Councillors / General Managers / All council staff
Contact	Council Governance Team/ 02 4428 4100/ olg@olg.nsw.gov.au
Action required	Council to Implement

Compliance with social distancing requirements to limit the spread of the COVID-19 virus at council and committee meetings

What's new or changing?

- The Minister for Health and Medical Research, the Hon. Brad Hazzard MP, has issued the *Public Health (COVID-19 Gatherings) Order 2020* (the Public Health Order), restricting gatherings in indoor spaces exceeding 100 persons. Further information about the new Public Health Order is available [here](#).
- Meetings of councils and committees of councils are **not** exempted from the order as “essential gatherings”, and **councils must comply with the order**.
- Amendments have been made to the *Local Government Act 1993* (the Act) allowing councils to meet remotely to assist them to manage the risk of transmission of the COVID-19 virus at their meetings and to ensure compliance with the Public Health Order. The amendments take effect immediately.
- The amendments will operate for a period of six months, but may be extended to 12 months by regulation if required.

What this will mean for your council

Council and committee meetings can be held remotely, and individual councillors can participate in meetings remotely

- An amendment has been made to the Act providing that any requirement that councillors attend a meeting is satisfied if the meeting is held remotely using audio-visual links.
- This means that councillors can now participate in meetings by an audio-visual link instead of attending in person.
- Council meetings can be held entirely remotely by audio-visual link. Alternatively, where councils continue to meet in person, individual councillors are permitted to participate in the meeting by audio-visual link.
- Where councillors participate in meetings remotely by an audio-visual link, they continue to be obliged to disclose and appropriately manage conflicts of interest they may have in matters being considered at meetings. Councillors continue to be obliged to remove themselves from the consideration of matters in which they have a pecuniary or significant non-pecuniary conflict of interest.
- Where councillors participate in meetings remotely by an audio-visual link, they continue to be obliged to protect any confidential information considered at the meeting. Where meetings are closed to the public under section 10A of the Act, councillors should ensure that they participate in the meeting in a location where it cannot be seen or heard by anyone else.

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Attendance of members of the public at meetings

- The amendment to the Act also provides that the requirement under section 10 of the Act that members of the public be permitted to attend meetings is satisfied if the meeting is held remotely using audio-visual links. The amendment also provides that the requirement under section 10 for meetings to be open to members of the public is satisfied if a webcast of the meeting is made public.
- This means that the requirement under section 10 of the Act for members of the public to be permitted to attend meetings can now be satisfied by livestreaming the meeting using an audio-visual link. Where meetings are livestreamed in this manner, members of the public can be excluded from the chamber.
- All councils have been required to webcast their meetings since 14 December 2019 and the Office of Local Government (OLG) has recently issued a *Guide to webcasting council and committee meetings*. The Guide is available [here](#). Among other things, the Guide provides information on how councils can livestream their meetings using audio-visual links, including technical guidance based on the experiences of councils that currently livestream their meetings using audio-visual links.
- Councils continue to be permitted to close their meetings to the public on the grounds specified under section 10A of the Act. Where councils livestream their meetings, they should ensure that the webcast is stopped while the meeting is closed to the public and resume it when the meeting is reopened to the public.
- Where councils continue to permit members of the public to physically attend meetings, the numbers of members of the public present in the chamber can and should be limited to comply with the Public Health Order and the Australian Health Protection Principal Committee's (AHPPC) recommendations on indoor gatherings (see below).
- Where the number of people seeking to physically attend a meeting exceeds the numbers permissible under the Public Health Order or would prevent compliance with the AHPPC's recommendations on indoor gatherings, councils may consider accommodating excess numbers of people wishing to attend the meeting in another indoor or outdoor space and broadcast the meeting's proceedings to that space.

Public forums

- Requirements for the holding of public forums prior to or at meetings will vary from council to council depending on the provisions contained in their adopted codes of meeting practice.
- Under the provisions contained in Part 4 of the *Model Code of Meeting Practice for Local Councils in NSW* (the Model Meeting Code), public forums are discretionary.
- To ensure compliance with the Public Health Order, public forums should only be held in a manner that is consistent with the Public Health Order and the AHPPC's recommendations on indoor gatherings. Where this is not possible, public forums should not be held, or alternative arrangements should be made for the making of public submissions to councillors. For example, submissions could be made to councillors via an audio-visual link or in writing instead of in person.

Delegations

- As previously advised in [Circular 20-06](#), councils should review their delegations as a matter of urgency to ensure that decisions can be made quickly in response to any developments outside of the normal council meeting cycle. Councils' functions (other than those specified in section 377 of the Act) can be delegated to the general manager, the mayor or another body such as a committee.

Cancellation of meetings

- If councils consider that the holding of a meeting will pose a risk to those attending the meeting, the meeting can be cancelled.
- If adopted by councils, clause 5.14 of the Model Meeting Code provides that where it becomes apparent prior to the commencement of a meeting that the safety and welfare of councillors, council staff and members of the public may be put at risk by attending the meeting, the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting.
- Where a meeting is cancelled, notice of the cancellation must, at a minimum, be published on the council's website. Councils should also take additional steps to communicate the cancellation to ensure as many people know about it as possible.
- Where a meeting is cancelled, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting.

Other measures

- The amendment to the Act allows the Minister for Local Government to approve other arrangements for satisfying the requirements for councillors and members of the public to "attend" meetings, but only if audio-visual links are not reasonably available.
- If councils are not able to comply with any of the above requirements, they should advise OLG in writing so that alternative arrangements may be considered for approval. In doing so, councils should advise:
 - why they are not able to comply with any of the options outlined above
 - what alternative arrangements are being proposed
 - how the proposed arrangements will ensure any members of the public wishing to attend a meeting can view the meeting in real time
 - arrangements for ensuring that conflicts of interest are appropriately disclosed and managed
 - arrangements for ensuring that confidential information is protected.

Key points

- The AHPPC has made recommendations on risk mitigation measures to be applied to indoor gatherings. The recommendations are available [here](#).
- The AHPPC recommends the following risk mitigation strategies:
 - In a given occupied space, there must be a density of no more than one person per four square metres of floor space.
 - Availability of hand hygiene products and suitable waste receptacles, with frequent cleaning and waste disposal.

- Promotion of the Department of Health recommendations for unwell individuals to isolate at home and not attend.
- For settings where there is ongoing movement and an increased number of interactions between individuals, an individual's attendance should be less than two hours in duration.
- For settings that are primarily static, an individual's attendance should be limited to four hours in duration.
- Councils should apply these measures when holding council or committee meetings and any other indoor gatherings.

Where to go for further information

- See OLG's *Guide to webcasting council and committee meetings* which is available [here](#).
- If councils require assistance to identify and procure technical solutions to allow councillors to participate in meetings by audio-visual link or to livestream their meetings by video, the Local Government Procurement (LGP) ICT Panel Contract (LGP115) has a variety of providers who can deliver video collaboration solutions. For more information see the LGP website [here](#) or contact Luke Kenny, Chief Executive Officer, on 0421 059 172 or at lkenny@lgp.org.au.
- For further information please contact the Council Governance Team on 02 4428 4100 or by email at olg@olg.nsw.gov.au.



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