

Item 4.2**Extension of Temporary Procedures for Attendance by Councillors at Meetings by Audio-Visual Link and Post-Election Arrangements****File No: S051923-02****Memorandum by the Chief Executive Officer**

To Council:

On 17 May 2021, Council approved Temporary Procedures for Attendance by Councillors at Meetings by Audio-Visual Link - Covid-19 Pandemic (Temporary Procedures) to 31 December 2021, following amendments to the then Local Government (General) Regulation 2005 to temporarily exempt councils from complying with the requirement under codes of meeting practice for councillors to be personally present at meetings in order to participate in them. The exemption has recently been extended and now expires on 30 June 2022.

The Temporary Procedures enable the Lord Mayor to determine requests for attendance at meetings by councillors by audio visual link and to determine that all councillors may attend meetings remotely in circumstances of increased public health risks relating to Covid-19 cases in the Sydney area.

On 29 October 2021, the Office of Local Government released circular 21-35 "2021 Model Code of Meeting Practice for Local Councils in NSW" advising that the new Model Code of Meeting Practice for Local Councils in NSW (Model Meeting Code) has been finalised. The Model Meeting Code contains new non-mandatory provisions that allow councils to permit individual councillors to attend meetings by audio-visual link and to hold meetings by audio-visual link in the event of natural disasters or public health emergencies.

Councils must adopt a Code of Meeting Practice within 12 months of the local government elections. An updated Code of Meeting Practice will be prepared for Council consideration in early 2022 to meet this requirement. This will include provisions relating to attendance via audio-visual link.

The repeal date for section 237 of the Local Government (General) Regulation 2021, which exempts councils from the requirement for councillors to be personally present at meetings in order to participate, has been extended to 30 June 2022. The new Model Meeting Code has been published in the Government Gazette and prescribed by the Local Government (General) Regulation 2021.

In order to provide flexibility, particularly in the post-election recess period (subject to swearing in of Councillors), extending the Temporary Procedures will enable remote meetings to be held over the recess period and to 30 June 2022 if required, while a new Code of Meeting Practice is considered, exhibited and adopted. It is anticipated that Council will resume in-person meetings in 2022, subject to any public health requirements.

It is recommended that minor amendments are made to the Temporary Procedures to also enable attendance at meetings by audio visual link to due to a natural disaster event such as bushfires or flooding and to enable a determination that all councillors attend a meeting using audio visual links in the event of a natural disaster impacting the Sydney area. This is in accordance with the provisions of the new Model Meeting Code.

This memorandum recommends that Council approve the extension of, and minor amendments to, the Temporary Procedures for Attendance by Councillors at Meetings by Audio-Visual Link and delegate authority to the Lord Mayor to determine requests for attendance at meetings by councillors by audio visual link and to determine that all councillors may attend meetings remotely in circumstances of increased public health risks relating to Covid-19 cases in the Sydney area or in the event of a natural disaster impacting the Sydney area.

Post 2021 Election Arrangements

On 24 July 2021, the Minister for Local Government announced that the September 2021 local government elections would be postponed to address the risks posed by the Delta outbreak of Covid-19 in Greater Sydney. A new date for the local government elections has been set for Saturday 4 December 2021.

The NSW Electoral Commission and the Office of Local Government have advised that the declaration of election results will not occur before 21 December 2021 and will most likely occur between 21 and 23 December 2021.

Section 233A of the Local Government Act 1993 requires that a councillor must take an oath of office or make an affirmation oath in person before the Chief Executive Officer, an Australian legal practitioner or a justice of the peace. If taken outside of a meeting, the oath must be “publicly recorded”.

A councillor is able to exercise their functions once a poll is declared, but is not able to attend Council meetings until they take their oath or affirmation.

The City of Sydney post-election extraordinary meeting of Council is currently scheduled to be held in-person on 23 December 2021, subject to the declaration of election results.

Recommendation

It is resolved that:

- (A) Council note circular 21-35 2021 Model Code of Meeting Practice for Local Councils in NSW as shown at Attachment A to the subject memorandum;
- (B) Council approve the extension of and amendments to the Temporary Procedures for Attendance by Councillors at Meetings by Audio-Visual Link as shown at Attachment B to the subject memorandum, to 30 June 2022 or the adoption of a new Code of Meeting Practice (whichever is sooner);

- (C) authority be delegated to the Lord Mayor to determine requests for attendance at meetings by councillors by audio visual link and to determine that all councillors may attend meetings remotely in circumstances of increased public health risks relating to Covid-19 cases in the Sydney area or in the event of a natural disaster impacting the Sydney area ; and
- (D) Council note that an updated Code of Meeting Practice, incorporating the mandatory provisions of the Model Meeting Code will be considered early in 2022.

MONICA BARONE

Chief Executive Officer

Attachments

- Attachment A.** Circular 21-35 2021 Model Code of Meeting Practice for Local Councils in NSW
- Attachment B.** Temporary Procedures for Attendance by Councillors at Meetings by Audio-Visual Link