

South Australian Heritage Council

7.1 Procedure: Meetings and Prescribed Urgent Matter Consideration

OBJECTIVE:

To establish procedures for Council meetings.

CONTEXT:

Section 7 of the Heritage Places Act 1993 (the Act).

Council's Strategic Plan 2015-2018: Improve legislative decision making processes.

SCOPE:

General meeting proceedings, distribution of agendas and minutes.

APPLICATION:

This procedure applies to Council meetings and any meetings of committee and sub-committees established by the Council (unless otherwise stated in the Terms of Reference for the committee or sub-committee).

PROCEDURE:

1. General

1.1. Meeting Attendance in Person

Council meetings will whenever possible be attended by members in person.

Members should endeavour to inform the Executive Officer by telephone or email at least five days before the meeting if they are unable to attend, or, in the case of last minute factors, at least one working day before the meeting.

The Chair will make a decision regarding attendance of acting members at least five days before the meeting.

1.2. Meeting attendance by Telephone of Other Electronic Means

A conference by telephone or other electronic means between members of the Council will be taken to be a meeting of the Council at which the participating members are present. (Section 7(5) of the Act).

The Chair may decide whether a member or members of the Council may participate in a meeting of the Council via telephone or other electronic means. The Council's secretariat will organise and provide technical support for such members.

The Chair and at least one member will be present in person at meetings.

Unless deemed confidential, meetings by telephone or other electronic means must be observable by the public (pursuant to Section 7 (6) of the Act). Given this requirement, out of session meetings held by telephone or other electronic means will be publicly advertised on the Council's website at least 3 days prior to the meeting, with details on how the public may observe.

1.3. Chair

Meetings of the Council must be chaired by the Chair or, in his or her absence, the Deputy Chair or, in the absence of both or them, a member chosen by those present (Section 7(1) of the Act).

1.4. Quorum

The prescribed number of members of the Council constitutes a quorum of the Council (Section 7(2) of the Act). The prescribed number is the total number of members divided by 2, ignoring any fraction resulting from the division, and adding 1 (Section 7(8) of the Act).

1.5. Conflict of Interest

A conflict of interest will arise when a Council Member has a direct or indirect personal or pecuniary interests in a matter decided by or under consideration by the Council.

Not all interests will give rise to a conflict of interest.

- A conflict will only exist when the Council is considering or making a decision in relation to a matter to which the interest relates; and
- A conflict arises when a reasonable person would consider that there is a real and sensible possibility that the member has a perceived, potential or actual pecuniary or personal interest in the matter being considered by the Council.

A conflict of interest may occur if an interest influences or appears to influence a Council members ability to be objective.

If a Council member or their associate has a conflict of interest in a matter decided by or under consideration by Council the conflicted member must:

1. as soon as reasonably practicable, **disclose in writing of the Minister** full and accurate details of the interest; and
2. **not take part in any discussion** by the Council relating to the matter; and
3. **not vote** in relation to that matter; and
4. **be absent** from the meeting room when any such discussion or voting is taking place.

Neither the Council, nor its Chair, can absolve the member of their duty with respect to conflicts of interest. The onus is on the member to ensure they comply.

Failure to comply can attract a fine of \$15,000, and can result in any contracts in regards to which a Council member had a conflict of interest being voided.

The member cannot be fined if they were not aware of the interest at the time, but the burden of proof will rest with the Council member.

Further guidance for Council members is included in Council's 'Guideline – Conflict of Interest.'

1.6. Voting

The Chair may determine the most appropriate way of dealing with specific agenda items during the course of a meeting.

A decision carried by a majority of the votes of the members present at a meeting of the Council (Section 7(3) of the Act) will be recorded as a formal decision of Council.

Where a matter is to be determined by a vote, each member present at a meeting of the Council is entitled to one vote. If the voting is equal, the Chair of that meeting is entitled to a second or casting vote (Section 7(4) of the Act) to resolve the matter.

1.7. Public Attendance and Confidentiality of Agenda Items

Meetings of the Council must be held at a venue open to the public (Section 7(6) of the Act).

Members of the public wishing to observe the meeting will be encouraged to notify the Executive Officer of the Council of their wish at least two days prior to the relevant meeting.

The meetings of committees, sub-committees or working groups established by the Council are exempt from this requirement. Other parties may be allowed to attend committees, sub-committees or working groups by invitation of the chair of those bodies.

The Council may determine to exclude the public on matters it considers confidential, or if it considers exclusion necessary to protect a place that is or may be of heritage value. (Section 7(6) of the Act).

The Chair will approve the initial listing of agenda items and presentation of material in confidence. The confidentiality will be indicated on the agenda. The agenda item will contain explanation of grounds for excluding public from the meeting.

The Council will confirm whether it will deal with the matter in confidence at the beginning of the meeting where the matter will be discussed, unless this is determined at a prior meeting of the Council.

Having considered the matter in confidence, the Council will determine whether to retain the documents, deliberations, minutes and decisions in confidence.

All resolutions made by the Council to retain the documents, deliberations, minutes and decisions in confidence will be reviewed every twelve (12) months to determine whether it still needs to be kept in confidence. Any documents / text taken out of in confidence will be made available to the community.

The Council will provide speaking rights to a person who makes written representations in relation to a provisional entry unless the submission is frivolous. (Section 18 (2) of the Act). Other than in relation to this provision, members of the public wishing to address the Council will be provided the opportunity to do so on a case by case basis, as determined by the Chair in consultation with Council members.

If a request to address the Council is refused by the Chair, then the Chair will inform the Council of the decision. Where possible, members will be informed of this prior to the meeting, via their papers or email. Council will confirm the Chair's decision or review the decision at the meeting. If Council decides to reverse the decision, an opportunity to address the Council will be provided at the next possible opportunity.

Members of the public wishing to address the Council are required to fill out the form prepared for this purpose and provide it to the Executive Officer of the Council at least seven days prior to the relevant meeting.

1.8. Notice of Meetings

Notice of the Council's meetings dates for the year will be published on Council's webpage.

The meetings of committees, sub-committees or working groups established by the Council are exempt from this requirement.

Any additional meetings held throughout the year, over and above the Council's scheduled meetings, will be

advertised on the website at least 3 days prior to the meeting.

1.9. Attendance of Staff supporting the Council and Other Parties

The Secretariat of the Council will attend all Council meetings.

The Chair will request briefings or presentations from the staff supporting the Council through the Manager of the departmental unit supporting the Council.

Council members will inform the Chair prior to a meeting if they wish any other party to attend a meeting of the Council for any purpose. In the case of meetings of committees, sub-committees or working groups established by the Council, the Chair of that committee will decide whether this request will be granted.

2. Distribution of Agendas and Agenda Papers

The agenda for a meeting of the Council and any committees established by the Council will be finalised two weeks prior to the meeting date. Council agendas will be posted on the Council's webpage at least one week prior to the meeting.

The Chair of the Council or committee will determine whether items received after the due date will be tabled at the meeting or referred to the next meeting.

Council and Committee agenda papers will be forwarded to relevant members, including acting members, either in hard or soft copy, at least seven days prior to each meeting.

Items tabled at a meeting will also be distributed with the minutes to those members not present.

The Department supporting the Council will consult the Chair whether agenda papers will be available to a member of the public upon their request.

Copies of meeting minutes of Council's committees, sub-committees or working groups will be available to Council members, on request.

3. Distribution of Minutes

Draft minutes of Council meeting will be forwarded to the Chair for review.

The Council or committee will approve minutes of meetings at the next meeting.

The minutes of meetings of the Council must be available for public inspection without charge (Section 7(7) of the Act). If the minutes comprise a confidential item, then such item will be excluded from the publicly available minutes (Section 7(6) of Act).

Once approved, non-confidential minutes will be available on Council's webpage.

The minutes of meetings of committees, sub-committees or working groups established by the Council are exempt from this requirement.

4. Prescribed Urgent Matter Consideration

As a result of amendments under the Statutes Amendment and Repeal (Simplify) Act 2017, a proposed resolution of the Council in connection with a prescribed urgent matter becomes a valid decision of the Council when a majority of the members express concurrence in the proposed resolution by email (Section 7(5a) of the Act).

In relation to the provisional entry of a place in the Register under Section 17(2)(b), or the making of an order under Section 30(1) only, the Council may reach a decision without having a meeting.

The secretariat will agree with the Chair that a matter is a prescribed urgent matter in accordance with Section 7(9) of the Act.

The secretariat will:

- give reasonable notice to Council members that a prescribed urgent matter needs consideration;
- provide the proposed resolution and any relevant supporting papers with the notice;
- advise members of the nominated time/date by which members must respond to the proposed resolution.

Before expiry of the nominated time/date, Council members will advise the secretariat by email whether or not they concur with the proposed resolution.

The secretariat must record the responses from Council members and advise the Chair and Council members whether or not there is concurrence with the proposed resolution by the majority of members.

If there is concurrence, a valid decision of Council has been made.

The secretariat will refer as required to the register clerk.

DATE ADOPTED: 28 July 2009

Judith M Carr

REVIEWED: 19 October 2016

Judith M Carr

REVIEWED: 5 July 2017

Judith McCarr

REVIEWED: 12 September 2019

Keith Ed

