



2020

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# Parliament of Tasmania

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PARLIAMENTARY STANDING COMMITTEE

## SUBORDINATE LEGISLATION

**SCRUTINY OF NOTICES ISSUED UNDER THE COVID-19  
DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT  
2020 – REPORT 2 (No. 7)**

# ADDENDUM

**Please note:** *the following attachments were inadvertently omitted from Report 2.  
The following Appendices should be considered in conjunction with the previous Report.*

## **Table of Contents**

### **Appendices**

Supporting documentation relating to the Notice dated 9 April 2020 from the Premier, the Hon Peter Gutwein MP .....	3
Minutes of Proceedings relevant to the Notice.....	14



PREMIER OF TASMANIA

9 APR 2020

Mr Stuart Wright  
Secretary  
Joint Standing Committee on Subordinate Legislation  
Parliament House  
HOBART TAS 7000

Dear Mr Wright

**Notice Under Section 17 and Notice Under Sections 18 and 19 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* for the consideration of the Joint Standing Committee on Subordinate Legislation**

On 3 April 2020, a Notice Under Section 17 and a Notice Under Sections 18 and 19 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the COVID-19 Act) were published in the *Tasmanian Government Gazette*. The Notices support business and service continuity for local councils during the COVID-19 pandemic emergency.

Section 7(3) of the Act specifies that, if a Minister issues a notice under the Act, he or she, within 14 days, is to send to the Joint Standing Committee on Subordinate Legislation (the Committee) a copy of the notice.

Section 7(4) of the Act specifies that, sections 7(4), 8 and 9 of the *Subordinate Legislation Committee Act 1969* apply to a copy of a notice sent to the Committee under section 7(3) of the COVID-19 Act as if the notice were regulations.

Please find attached copies of the following documents:

- Notice Under Section 17 of the COVID-19 Act (refer to Attachment 1);
- Notice Under Sections 18 and 19 COVID-19 Act (refer to Attachment 2);
- Ministerial Notice Statement outlining the rationale for, and effect of, the Notices (refer to Attachment 3); and
- the advice given by the Chief Parliamentary Counsel in respect of the Notices (refer to Attachments 4 and 5).

Yours sincerely

Peter Gutwein MP  
Premier


## ADVICE OF CHIEF PARLIAMENTARY COUNSEL

***Notice under section 17 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

I advise that this statutory rule –

- (a) appears to be within the powers conferred by the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020; and
- (b) does not appear, without clear and express authority being provided by any Act, to –
  - (i) have any retrospective effect; or
  - (ii) impose any tax, fee, fine, imprisonment or other penalty; or
  - (iii) sub-delegate powers delegated by the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020; and
- (c) appears to be within the general objectives of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020; and
- (d) is expressed in as clear and unambiguous language as is reasonably possible.

Dated 3 April, 2020.



Robyn Webb  
Chief Parliamentary Counsel

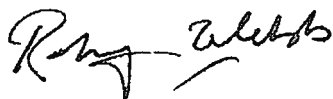
## ADVICE OF CHIEF PARLIAMENTARY COUNSEL

***Notice under sections 18 and 19 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

I advise that this statutory rule –

- (a) appears to be within the powers conferred by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (b) does not appear, without clear and express authority being provided by any Act, to –
  - (i) have any retrospective effect; or
  - (ii) impose any tax, fee, fine, imprisonment or other penalty; or
  - (iii) sub-delegate powers delegated by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (c) appears to be within the general objectives of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (d) is expressed in as clear and unambiguous language as is reasonably possible.

Dated 3 April, 2020.



Robyn Webb  
Chief Parliamentary Counsel

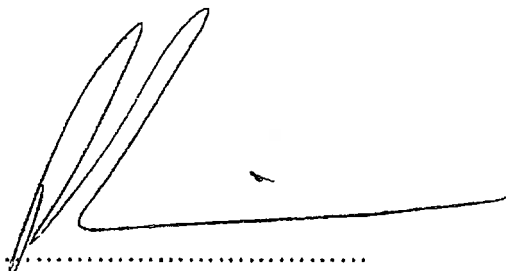
TASMANIA

*COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*

**NOTICE UNDER SECTION 17**

I, PETER GUTWEIN, the Premier, in pursuance of section 17(1) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, being of the opinion that the relevant emergency circumstances exist in relation to this notice and with the approval of the emergency manager, declare that, despite any of the provisions specified in the Schedule to this notice, any action required to be taken by means of a physical action such as a signature or personal service, or evidenced in a document that is not an electronic document, under those provisions, may be taken or evidenced by means of an electronic signature or signatures, or an electronic document, respectively.

Dated:.....3.4.20.....

Signed:..........

Premier

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## **SCHEDULE**

1. Section 237 of the *Local Government Act 1993*.
  2. Section 238(1) of the *Local Government Act 1993*.
  3. Regulation 4(7) of the *Local Government (Meeting Procedures) Regulations 2015*.
  4. Regulation 34(6) of the *Local Government (Meeting Procedures) Regulations 2015*.
  5. Regulation 35(1)(b) of the *Local Government (Meeting Procedures) Regulations 2015*.
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TASMANIA

*COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*

**NOTICE UNDER SECTIONS 18 AND 19**

I, PETER CARL GUTWEIN, the Premier, being of the opinion that the relevant emergency circumstances exist in relation to this notice, and with the approval of the emergency manager –

(a) in pursuance of section 18 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, declare that, despite regulations 11(1), 14 and 37(2) of the *Local Government (Meeting Procedures) Regulations 2015* –

(i) a meeting, of a council or a planning authority, within the meaning of the *Land Use Planning and Approvals Act 1993*, may be held in the approved manner, within the meaning of section 18(2) of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, on the condition that the quorum for the meeting is constituted by the number of those members of the council, or planning authority, respectively, who are present in accordance with that approved manner during the conduct of the meeting; and

(ii) despite the requirements of regulations 11(1), 14 and 37(2) of the *Local Government (Meeting Procedures) Regulations 2015*, a meeting, of a council or a planning authority, that is required by any of those provisions to be open to the public may only be held in accordance with the approved manner referred to in sub-paragraph (i), on the condition that –

(A) an electronic recording of the meeting is available, for viewing by members of the public, at a website of the relevant local council; and

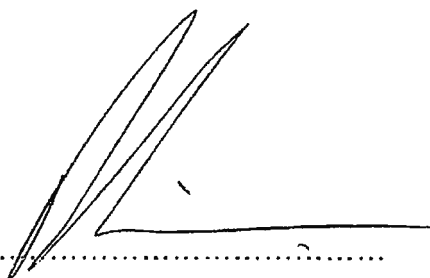
(B) the electronic recording so available is, as far as reasonably practicable, made so available for viewing contemporaneously with the meeting; and

(b) in pursuance of section 19 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, declare that, despite any provision specified in the Schedule to this notice, a requirement specified in the provision for public exhibition of documents, or information, at a place or in a manner specified in the provision, is taken to be satisfied if the document, or the information contained in the document, is –

(i) available, for viewing by members of the public, at a website of the relevant local council; and

(ii) available in hard copy, on request by telephone and for a fee representing the cost of reproducing the document, for collection from a place nominated by an officer of the relevant council.

Dated:.....3.4.20.....

Signed:..........

Premier

## SCHEDULE

1. Section 22(4) of the *Local Government Act 1993*.
  2. Section 28T(6) of the *Local Government Act 1993*.
  3. Section 31(1)(b) and (4)(a)(ii) of the *Local Government Act 1993*.
  4. Section 56B(3) of the *Local Government Act 1993*.
  5. Section 64(2) of the *Local Government Act 1993*.
  6. Section 66(4) of the *Local Government Act 1993*.
  7. Section 69 of the *Local Government Act 1993*.
  8. Section 71(3) of the *Local Government Act 1993*.
  9. Section 109C(4) of the *Local Government Act 1993*.
  10. Section 109E(3) of the *Local Government Act 1993*.
  11. Section 157(2) of the *Local Government Act 1993*.
  12. Section 206 of the *Local Government Act 1993*.
  13. Section 269(4) of the *Local Government Act 1993*.
  14. Section 339F(3) of the *Local Government Act 1993*.
  15. Regulation 7(3), (4) and (5) of the *Local Government (Meeting Procedures) Regulations 2015*.
  16. Regulation 9(2) and (4) of the *Local Government (Meeting Procedures) Regulations 2015*.
  17. Regulation 35(2) of the *Local Government (Meeting Procedures) Regulations 2015*.
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# Standing Committee on Subordinate Legislation

## *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*

### Ministerial Notice Statement

The attached Ministerial Notices are issued pursuant to sections 17, 18 and 19 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (the Act).

The State Controller has approved the issuing of the two Notices (one Notice under section 17 and the other Notice under sections 18 and 19) as required under section 6 of the Act.

The Notices were Gazetted and commenced on 3 April 2020. The Notices will be in force for a period of 12 months from their commencement date, unless they are earlier revoked.

Officers from the Department of Premier and Cabinet's Local Government Division are available to brief the Committee on the effect of the Notices in more detail, if requested. The Local Government Association of Tasmania (LGAT) has also offered to provide a briefing to the Committee explaining the operational need for the Notices from the local government sector's perspective.

### Reasons for the Notices

The Tasmanian Government has been working closely with the local government sector, through LGAT, to identify priority business continuity and regulatory compliance challenges for Tasmanian councils associated with the COVID-19 pandemic emergency, particularly in relation to the current restrictions on the movement of council elected members and staff, and the potential reduction in staff available to carry out particular functions and duties.

Key areas for concern for the sector include compliance with meeting procedures, and requirements for the public availability of documents at council offices.

The Government considers that the issuing of the attached Notices is necessary to effectively manage immediate business continuity and statutory compliance risks for the local government sector.

Consultation with the local government sector regarding business and service continuity during the pandemic emergency is ongoing. It is likely that further notices will need to be issued in relation to other statutory obligations on local councils.

## Effect of the Notices

The Ministerial Notices provide for the following:

1. **Matters that would ordinarily require a physical action to either support the conduct of a council meeting or in relation to an approval, may be done electronically (section 17).** Significant aspects of councils' statutory functions require physical signatures of authorised individuals. With a move to working from home or across separate offices achieving this is operationally inefficient, if not impossible.
2. **Councils may meet in the 'approved manner' as provided for under section 18 of the Act. This will allow for councils to meet and transact business by means of video or teleconference, or by another agreed method (section 18).** Councils cannot hold meetings in accordance with their legislative and regulatory requirements (which mandates physical attendance) without breaching orders issued by the Director of Public Health in relation to social distancing. As a condition of this Notice, councils will need, to ensure that persons are able to view an electronic recording of meetings.
3. **Documents that are required to be available for inspection at council premises under the *Local Government Act 1993* or the *Local Government (Meeting Procedures) Regulations 2015* can instead be done in the 'approved manner', which includes that these documents are made accessible on council websites (section 19).** Where council offices are closed to the public, compliance with these legislative requirements to make available various documents for viewing at the council office is impossible.

#### Attachments

- 1 Notice Under Section 17
- 2 Notice Under Sections 18 and 19
- 3 Ministerial Statement Notice
- 4 Advice of Chief Parliamentary Counsel regarding the Notice Under Section 17
- 5 Advice of Chief Parliamentary Counsel regarding the Notice Under Sections 18 and 19

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 21 APRIL 2020**

**COMMENCEMENT**

The Committee met at 11.02 am via tele-conference.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (Deputy Chair)

Ms Rattray (Chair)

Ms Webb

**House of Assembly**

Ms Standen

Mr Street

Mr Tucker

**SUPPORTING  
CORRESPONDENCE  
NOTICES**

***Resolved***, that the following supporting correspondence for notices be received:

1. Letter dated 9 April 2020 from the Hon Peter Gutwein MP, Premier providing paperwork for a Notice under Section 17 and a Notice under sections 18 and 19 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (local government).

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 24 APRIL 2020**

**COMMENCEMENT**

The Committee met at 11.07 am via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (Deputy Chair)

Ms Rattray (Chair)

Ms Webb

**House of Assembly**

Ms Standen

Mr Street

Mr Tucker

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLENEOUS  
PROVISIONS)  
ACT 2020  
(held-over)**

That the following Notices be held-over —

1. Notice under sections 18 & 19 (local government)

***RESOLVED***, that the Committee write to LGAT regarding digital device issues. Committee Members to provide

the Secretary with written questions by close of business today.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 28 APRIL 2020**

**COMMENCEMENT**

The Committee met at 11.00 am via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*)  
Ms Rattray (*Chair*)  
Ms Webb

**House of Assembly**

Ms Standen  
Mr Street  
Mr Tucker

**OUTWARDS  
CORRESPONDENCE**

***Resolved***, that the following correspondence be endorsed:

1. Letter dated 24 April 2020 to Dr Katrena Stephenson, Chief Executive Officer, Local Government Association of Tasmania regarding Local Government Notice under COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020.

**GENERAL  
CORRESPONDENCE**

***Resolved***, that the following correspondence be received:

2. Letter dated 27 April 2020 from Dr Katrena Stephenson, CEO, LGAT providing responses to questions.

**NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLANEOUS  
PROVISIONS)  
ACT 2020  
(examined)**

That the following Notices be examined —

1. Notice under sections 18 & 19 (local government)

The Committee **AGREED** that the draft report include the outwards and inwards correspondence regarding LGAT.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**FRIDAY 1 MAY 2020**

**COMMENCEMENT**

The Committee at 11.02 am in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*)  
Ms Rattray (*Chair*)  
Ms Webb (*via Webex*)

**House of Assembly**

Ms Standen (*via Webex*)  
Mr Street  
Mr Tucker

**CONSIDERATION OF  
DRAFT REPORT 2 –  
NOTICES UNDER  
COVID-19 DISEASE  
EMERGENCY  
(MISCELLEANEOUS  
PROVISIONS)  
ACT 2020**

The Committee considered the amended draft report.

**RESOLVED**, that the amended draft report be adopted and tabled in both houses on Thursday 7 May 2020. The *Chair* to present the report in the Legislative Council and Mr *Tucker* to present the report in the House of Assembly.

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 26 MAY 2020**

**COMMENCEMENT**

The Committee at 1.30 pm in Committee Room 2 and via Webex.

**MEMBERS PRESENT**

**Legislative Council**

Ms Forrest (*Deputy Chair*) (*via Webex*)  
Ms Rattray (*Chair*) (*via Webex*)  
Ms Webb (*via Webex*)

**House of Assembly**

Ms Standen (*via Webex*)  
Mr Street (*via Webex*)  
Mr Tucker (*via Webex*)

**ATTACHMENTS  
ADDED TO DRAFT  
REPORTS**

The Committee considered the proposed motions circulated in advance of today's meeting.

The *Deputy Chair* moved Motion No. 1 with amendments:

1. That each Report released by the Committee related to a Notice under the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*, that all information provided to the committee related to the Notice be considered and agreed to, including incoming and outgoing correspondence, relevant Hansard and Minutes to be published with and as part of the Report.

The Committee **RESOLVED** to adopt Motion No. 1.

The *Deputy Chair* moved Motion No. 2:

2. That when any Report, prepared as in Motion 1 above, is tabled, either with the President or tabled in Parliament, as soon as is practicable the Report be published on the website as Reported and the Notice and supporting documents be removed from the section of the website where Notices under consideration are listed.

The Committee **RESOLVED** to adopt Motion No. 2.

The *Deputy Chair* moved Motion No. 3 with amendments:

3. That Reports 2, 3 and 4 of the Committee related to Notices under the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* be reconsidered and amended to include all relevant information, related to the Notices as per Motion 1 above and be reissued as the Reports of the Committee.

The Committee **RESOLVED** to adopt Motion No. 3.

#### **JOINT STANDING COMMITTEE**

### **SUBORDINATE LEGISLATION**

**FRIDAY 29 MAY 2020**

#### **COMMENCEMENT**

The Committee at 11.00 am in Committee Room 2 and via Webex.

#### **MEMBERS PRESENT**

##### **Legislative Council**

Ms Forrest (*Deputy Chair*)(via Webex)

Ms Rattray (*Chair*) (via Webex)

##### **House of Assembly**

Ms Standen (via Webex)

Mr Street (via Webex)

Mr Tucker (via Webex)

Ms Webb took her place at 11.05 am (via Webex)

**DRAFT ADDENDUM  
REPORTS 2,3, & 4**

The Acting Secretary provided advice regarding the possible process to follow when reissuing Reports 2, 3 and 4 related to COVID-19 Notices. The additional information not attached to the previous Reports 2, 3 and 4 be included in an Addendum to each Report (to be considered and agreed to) and further, the Addendum Reports can then be tabled.

The Committee considered Draft Addendum Report 2.

The Committee **RESOLVED**, to adopt Draft Addendum Report 2.

The Committee **RESOLVED**, to table the Addendums to Reports 2, 3 and 4 next Wednesday, 3 June 2020.

Further, the Committee **RESOLVED**, that Addendums to Reports 2, 3 and 4 as agreed to, include today's minutes (once confirmed).

**JOINT STANDING COMMITTEE**

**SUBORDINATE LEGISLATION**

**TUESDAY 2 JUNE 2020**

**COMMENCEMENT**

The Committee met at 1.30 pm in Committee Room 2, Parliament House, Hobart

**MEMBERS PRESENT**

**Legislative Council**

*Ms Forrest (Deputy Chair)*  
*Ms Rattray (Chair)*  
*Ms Meg Webb*

**House of Assembly**

*Ms Standen*  
*Mr Street*  
*Mr Tucker*

**MINUTES  
ATTACHED TO  
ADDENDUM REPORTS  
2, 3 AND 4; REPORTS  
5 AND 6 AND FUTURE  
REPORTS OF THE  
COMMITTEE**

The Committee **RESOLVED** —

Minutes to be attached to Reports be confined to sections of the Minutes related to the notices under consideration for Addendum Reports 2, 3 and 4; Reports 5 and 6; and future Reports of the Committee.