



2020

Parliament of Tasmania

PARLIAMENTARY STANDING COMMITTEE

SUBORDINATE LEGISLATION

SCRUTINY OF NOTICES ISSUED UNDER THE COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020 – REPORT 2

Members of the Committee

**Ms Ruth Forrest MLC
Ms Tania Rattray MLC (Chair)
Ms Meg Webb MLC**

**Ms Alison Standen MP
Mr Nic Street MP
Mr John Tucker MP**



The Committee was appointed under the provisions of Section 3 of the *Subordinate Legislation Committee Act 1969* (No. 44 of 1969). Section 8 of the Act outlines the functions of the Committee, as follows –

- (a) to examine the provisions of every regulation, with special reference to the question whether or not –
 - (i) the regulation appears to be within the regulation-making power conferred by, or in accord with the general objects of, the Act pursuant to which it is made;
 - (ii) the form or purport of the regulation calls for elucidation;
 - (iii) the regulation unduly trespasses on personal rights and liberties;
 - (iv) the regulation unduly makes rights dependent on administrative decisions and not on judicial decisions; or
 - (v) the regulation contains matters that, in the opinion of the Committee, should properly be dealt with by an Act and not by regulation; and
- (b) to make such reports and recommendations to the Legislative Council and the House of Assembly as it thinks desirable as the result of any such examination.

COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020 – SCRUTINY OF NOTICES

The Parliament of Tasmania passed the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (the Act) on 26 March 2020. The Act prescribes a role for the Joint Standing Committee on Subordinate Legislation in the scrutiny of certain notices under the Act.

In response to this new scrutiny role, the Committee has given extensive consideration to an appropriate mechanism for it to report upon its deliberations on all notices gazetted under the Act in the interest of public transparency. The Committee will:

- Meet twice weekly on Tuesdays and Fridays until further notice;
- Publish a list of the notices to be discussed by the Committee, and documentation relating to notices to be examined by the Committee, to be published on the Committee website prior to each meeting; and
- Present regular reports to Parliament, which will contain further information in relation to the completed examinations of notice.

Notice Under Section 18 & 19 (local government)

The Committee examined the Notice at its meeting on Tuesday 28 April. The Committee wrote to the Local Government Association of Tasmania (LGAT) seeking further information regarding the application of aspects of the terms of the Notice prior to completing the examination. A copy of correspondence to and from the Local Government Association of Tasmania regarding the notices is attached to the report for completeness. Following receipt of correspondence from LGAT, the Committee **Resolved** the Notice be examined, noting that it was consistent with the COVID-19

Disease Emergency (Miscellaneous Provisions) Act 2020 and the intent of the Parliament.

A handwritten signature in black ink that reads "Tania Rattray". The signature is written in a cursive, flowing style.

Tania Rattray MLC
CHAIR

1 May 2020



Joint Standing Committee Subordinate Legislation

24 April 2020

Dr Katrena Stephenson
Chief Executive Officer
Local Government Association of tasmania
katrena.stephenson@lgat.tas.gov.au

Dear Dr Stephenson

COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020 – NOTICE REGARDING LOCAL GOVERNMENT

The Committee is currently examining the Notice issued by the Premier under sections 18 & 19 of the Covid-19 Disease Emergency (Miscellaneous Provisions) Act 2020 and as Gazetted on 3 April 2020.

The Committee has resolved that I write to request your response to the following questions -

1. How will the Councils work to solve digital divide issues that may arise with internet access being absent for certain populations who may be engaged with local government matters?
2. Regarding Section 18 – Council meetings being conducted electronically:

The ability for questions from the public to be fielded may prove challenging given the remote nature of meetings.

- How will public question time be effectively facilitated through online meetings?
 - Will Councils consider other options to remove barriers to public questions being raised and included in council meetings, e.g. through relaxing the requirement of section 31(1) of the *Local Govt (Meeting Procedures) Regulations 2015* to provide written notice of a question from 7 days down to 2 days before the meeting?
3. Regarding Section 19 – Public exhibition of documents will be satisfied if they are made available electronically or in hard copy on request and at a cost:

Noting that some documentation which would usually be freely available to view at a council premises is very lengthy in nature, assigning a cost to access hard copies may be prohibitive to some citizens.

- Will Council's be required to consider financial hardship as a reason to waive any costs associated with access to hard copies of documents for public exhibition?

4. How will closed Council meetings be effectively conducted electronically?

- Will there be a requirement placed on Councillors/Alderman to ensure they cannot be overheard by those around them (eg if at their home)?

5. How will LGAT work with their Members to ensure all councillors and aldermen are aware of and continue to abide by all their statutory duties, e.g. absenting themselves from discussions or meetings where there is a conflict of interest?

As the Committee is working through the Notices as efficiently as possible, it would be appreciated if your response would be provided at your earliest opportunity.

Yours sincerely



TANIA RATTRAY MLC

CHAIR

w. 03 6212 2250 f. 03 6212 2345 m. 0488 009 642 e. subleg@parliament.tas.gov.au

27 April 2020

Tania Rattray MLC
Chair
Joint Standing Committee Subordinate Legislation
Tania.rattray@parliament.tas.gov.au

Dear Tania

**COVID-19 DISEASE EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020 – NOTICE
REGARDING LOCAL GOVERNMENT**

Thank you for your letter dated 24 April. The Local Government Association of Tasmania (LGAT) is pleased to respond to your questions.

1. How will the Councils work to solve digital divide issues that may arise with internet access being absent for certain populations who may be engaged with local government matters?

Council will continue to provide hard copies of the agenda and minutes, upon request, to members of the public who are unable to view these documents or the council meeting via online means.

Already a significant proportion of councils are able to live stream or provide live audio of their remotely undertaken council meetings. Those who can't are audio or video recording and providing access to those recordings via their website. While we recognise that not all members of communities have access to such technologies, the requirements around physical distancing to ensure councillors, staff and community members are safe means that as a sector we are satisfied that viable alternatives are being provided.

LGAT has produced some guidelines for remote meetings to assist councils with their transition to physically distant meetings (see https://www.lgat.tas.gov.au/data/assets/pdf_file/0032/649166/LGAT-Remote-Meeting-Guide-01.pdf).

2. Regarding Section 18 – Council meetings being conducted electronically:

The ability for questions from the public to be fielded may prove challenging given the remote nature of meetings.

- How will public question time be effectively facilitated through online meetings?**
- Will Councils consider other options to remove barriers to public questions being raised and included in council meetings, e.g. through relaxing the requirement of section 31(1) of the Local Govt (Meeting Procedures) Regulations 2015 to provide written notice of a question from 7 days down to 2 days before the meeting?**

Acceptance and Terms

In most cases, the technology is not robust enough to allow for real time participation in public question time.

In our remote meeting guidelines (which were provided for comment to the Local Government Division) LGAT notes the following:

The ability to field questions is hampered with remote meetings, so should be treated differently. In particular, section 31(2)(b) in Public Question Time gives the chairperson the discretion to invite any member of the public present at an in-person meeting to ask a question during the meeting. This is very difficult to facilitate in a fair and orderly manner. To deal with this, the council may wish to relax the requirement of section 31(1) to provide written notice of a question from 7 days down to 2 days before the meeting.

Councils should clearly publicise any revised approach to public question time.

By way of example, Circular Head Council, who are conducting Council meetings via video conference and publishing them on YouTube, (see www.youtube.com/user/CircularHeadCouncil), are also allowing public questions be made in writing to Council up to midday on the day of the meeting. Up to 15 minutes of the online meeting will be allocated to reading and responding to the public questions.

Will Council's be required to consider financial hardship as a reason to waive any costs associated with access to hard copies of documents for public exhibition?

Councils are enacting a range of hardship measures including waiving fees and charges in some instances. LGAT is confident that all councils will entertain any valid hardship request on a case by case basis.

Will there be a requirement placed on Councillors/Alderman to ensure they cannot be overheard by those around them (eg if at their home)?

Section 3.16 of our meeting guidelines state

The usual procedures of LGMPR section 15 apply for closed parts of meetings. However, the chairperson should ensure live streaming is switched off and public meeting recording is stopped.

Councillors must be extra vigilant when moving into a closed meeting that they cannot be overheard by members of their household.

Further, in our home office set up checklist the following is included:

- Privacy – use a home office or private room, particularly for closed meetings. Avoid outdoor spaces with the potential to be overheard.
- Headphones - preference headphones or headsets over speakers wherever possible. Speaker noise can feedback into your microphone and create echoes for other participants. Speaker noise can be overheard and can present a confidentiality risk. Headsets/headphones with integrated microphones are more private and manage noise much more effectively.

How will LGAT work with their Members to ensure all councillors and aldermen are aware of and continue to abide by all their statutory duties, e.g. absenting themselves from discussions or meetings where there is a conflict of interest?

In addition to the LGAT remote meeting guidelines, the legislative requirements under the Act, Meeting Procedures Regulations and Code of Conduct still apply. The Mayor, General Manager and LGAT Team will continue to provide individual advice as required.

Yours sincerely



Dr Katrena Stephenson
CHIEF EXECUTIVE OFFICER