



## (C11) CONDUCTING ELECTRONIC COUNCIL AND COMMITTEE MEETINGS, AND ATTENDANCE BY ELECTRONIC MEANS POLICY

### 1. POLICY OBJECTIVE

The purpose of this Policy is to (1) enable Council and Committee meetings to be conducted electronic, and (2) enable and manage Councillor attendance of Council and Committee meetings by electronic means.

These meeting protocols will facilitate Councillor meeting attendance when Councillors cannot reasonably attend meetings due for example, to wet season flooding, the need to travel for their work, or to care for loved ones when they are unwell. The intent of this electronic meeting attendance capacity, is to increase flexibility for Councillors in meeting their obligations to attend meetings, and to also assist in achieving meeting quorums.

Council must also meet the requirements of Regulations 14C to 14E (inclusive) of the *Local Government (Administration) Regulations 1996*, by establishing positions and procedures on how it will for example, permit electronic meetings (Council and Committee) to occur, including how to deal with requests for electronic attendance at meetings and the expectations of Council in relation to Councillor equipment and the remote location used for the meeting's attendance.

It is not proposed presently, that Council or Committee Meetings will be held completely "on-line" and without any physical attendance (e.g. Derby Council Chamber) being in place.

This policy has no applicability for meetings using electronic means in the instance of a public health emergency, or where a state of emergency exists in the whole or a part of the district of the Shire of Derby/West Kimberley (SDWK). Where a declared public health or state of emergency, or associated directions, are in effect that prevent an in-person meeting being held, the President or the Council can approve a meeting to be held by electronic means. Meetings held by electronic means in these circumstances are not subject to, or included in, the prescribed limitation on the number of meetings held by electronic means [Admin.r. 14D(2)(a)(b)].

### 2. POLICY BACKGROUND

#### Electronic Meetings:

In accordance with regulation 14D of the *Local Government (Administration) Regulations 1996*, Council may approve the holding of any Ordinary or Special Council or Committee\* Meeting by electronic means\*. Notices types and notice periods as for non-electronic means meetings apply to meetings by electronic means. (\*)Neither a Committee, nor the Presiding Person of a Committee has a role to play in this area, or in the authorising of a Councillor to attend a Committee Meeting electronically.

\*The definition of *electronic means*, refers to the approved electronic requirements to access an in-person meeting or attend an electronic meeting, encompassing hardware and software requirements to enable instantaneous communication [Admin.r.14CA(3)]. The electronic means must be determined before the suitability of a location and equipment can be assessed as part of a request to attend electronically to an in-person meeting or to an electronic meeting.

The Council (or Committee) must determine how its notice papers, agendas, reports or other documents are to be presented at the meeting, and how they will be made available to Councillors and members



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of the public. To ensure adequate public notice of a meeting that is authorised to be held as an electronic meeting, the CEO must ensure details are:

1. published on the Local Government's Official webpage [Admin.r.12];
2. provided in the Notice of Meeting/Agenda; and
3. broadly promoted to ensure community awareness, such as through social media, newsletters, on noticeboards, etc.

For meetings to meet the legislative requirements of being open to members of the public, the meeting must be (1) accessible to the public; or (2) as the Shire of Derby/West Kimberley is a Band 2 local government, where a meeting must be 'open to members of the public', then the Council or Committee must publicly broadcast the meeting on a website; or (3) a broadcast of the meeting must be otherwise accessible to the public.

Time must be allocated for raising questions by members of the public, including the opportunity to (1) submit questions prior to the meeting; and (2) submit questions at the meeting. The council (or the committee) must develop a procedure to determine how it intends to respond to questions submitted.

Council\* cannot authorise more than half of its Council, or its Committee meetings, to be held electronically, in any rolling 12 months period (calculated for the prior 12 months period). Council cannot authorise any meetings to be held by electronic means unless (1) the location and the equipment to be used by Councillors attending are suitable to enable them to effectively engagement in the meeting's deliberations and communications; and (2) the CEO has been consulted. (\*)Whilst the Council has a primary role in authorising a Council or Committee Meeting to be held by electronic means, the President can also authorise a Councillors attendance by electronic means should that be considered warranted. This Council Policy clarifies how this dual authorisation process will be managed.

### **Councillor Meeting Attendance by Electronic Means:**

In addition to attending the Council authorised electronic meetings by electronic means referred to above, a Councillor may also attend additional council or committee meetings by electronic means if the member is authorised to do so by the President or the Council. Electronic means attendance can only be authorised for up to half of the Shire's in-person meetings (Council or Committee, calculated separately) they have attended in total, in any rolling 12 months prior period. (\*)Excluding a Councillor with a disability as defined in the *Disability Services Act 1993*. Neither the Committee nor the Committee Presiding Person has a role to play in this matter. Authorisation can only be provided if the location\* and the equipment to be used by the Councillor are suitable to enable effectively engagement in the meeting's deliberations and communications. (\*)The location is not limited to being within the district.

A Council/President cannot authorise it to occur, and no Councillor is permitted to attend a closed meeting, or the closed portion of a meeting, unless the Councillor declares\* they and their location can maintain confidentiality. If confidentiality cannot be maintained, the Councillor must leave the meeting or the closed part of the meeting. (\*)The declaration must be recorded in the minutes of the meeting.

### **3. POLICY STATEMENT**

**Authorising the holding of meetings conducted by electronic means:** The Council can as part of its annual Council Meeting decision making process of setting meeting days/times (to comply with Regulation 12 (Publication of meeting details)) consider setting some, or even up to the 50% maximum, of those meetings it believes ought to be held electronically at the time that decision is made. This will be the primary decision making time for which and how many meetings the Council wishes to set as electronic meetings.



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Outside of the above, urgent requests for a meeting to be held electronically can be considered by Council directly, where circumstances require that level of urgency, but the preference is for these applications to be made by (1) the President or individual Councillors in writing to the CEO, outlining reasons for the request; or (2) by the CEO directly. In both cases, the applications should progress to Council through the normal officer report process to the Council Agenda, inclusive of a CEO's acknowledgment of the application, and a recommendation. This will ensure that the logistics of the meeting process is accommodated, like electronic meeting invites being forwarded, records keeping occurs, and that the 50% cap is monitored and not exceeded.

The Kimberley is a region where meetings conducted by electronic means are considered to be "normal practice" rather than being the "exception to the rule" (which would be the case for most other local governments in WA). Distance, isolation, and annual seasonal weather conditions make it challenging for all SDWK Councillors to attend all meetings, all of the time. As such, the legislated 50% annual limit on meetings being held electronically, needs to form an important part of the authorisation process. This policy requires that the Council, in considering whether a meeting should be held by electronic means, must:

1. Firstly, consider the outcome that best provides for the overall needs of the district, the Council, and the Shire; then
2. Secondly, take into account the overall needs of the Council in order that the 50% cap on electronic meetings can still provide for optimal meeting attendance and accommodate key decision making requirements; and then
3. Thirdly, ensure that the maximum number of Councillors can be in attendance at its meetings (and particularly at key meetings like the budget meeting).

**Distribution of notice papers, agendas, reports or other documents:** The Council (or Committee) must determine how its notice papers, agendas, reports or other documents are to be presented at the meeting, and how they will be made available to Councillors and members of the public. This policy determines that:

1. Meeting notice papers will be distributed similarly to non-electronic means meetings (vis. as a minimum, to Councillors in a digital format, and currently via the *Teams* software package, and to the general public in accordance with Regulation 12 of the *Local Government (Administration) Regulations 1996*;
2. Agendas will be distributed similarly to non-electronic means meetings (vis. as a minimum, to Councillors in a digital format, and currently via the *Teams* software package, and to the general public in accordance with Regulation 14 of the *Local Government (Administration) Regulations 1996*;
3. Reports or other documents to be presented at the meeting will be distributed similarly to non-electronic means meetings (vis. as a minimum, to Councillors in a digital format, and currently via the *Teams* software package, and to the general public in accordance with Regulation 14 of the *Local Government (Administration) Regulations 1996*; and
4. In the event that Council elects to change an in-person meeting to an electronic meeting, and no in-person general public access to any meeting venue is to be provided, the CEO must undertake appropriate public notice of this fact. In particular, how the public might be able to view the meeting electronically, and submit any questions.

**Public Questions:** Time must be allocated for raising questions by members of the public (1) submitted prior to the meeting; and (2) submit at the meeting. Council determines that the following procedures will apply:



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1. **Council** – written questions can be submitted prior to the meeting through all of the normal business channels (e.g. post, email). Responses will either be provided at the meeting, or taken on notice and responded to directly back to the person that submitted the question, with a summary of the question and the answer included in the next available Council meeting minutes; and
2. **Committees** – written questions can be submitted prior to the meeting through all of the normal business channels (e.g. post, email). Responses will either be provided at the meeting, or taken on notice and responded to directly back to the person that submitted it, with a summary of the question and the answer included in the next available Committee meeting minutes.

Unless exceptional circumstances prevail, the opportunity for physical attendance (e.g. Derby Council Chamber) will always be in place for community members to participate.

**Electronic means for Councillor and General Public attendance:** Electronic attendance at meetings will be conducted through the Shire's *Microsoft Teams* software capacity as a preference (or an alternative digital capacity as determined by the CEO). In the event of technical difficulties being encountered, telephone access will be provided.

Electronic attendance by the general public will also be through the *Teams* program, on a view only basis. The ability to ask questions at the Question Time section of the meeting will be provided if the technology can accommodate such access in a suitably controlled manner.

Unless exceptional circumstances prevail, the opportunity for physical attendance (e.g. Derby Council Chamber) will be in place for Councillors and the community.

**Authorisation of Councillor attendance:** A Councillor may only attend a previously declared in-person meeting, by electronic means, if they have the prior authorisation to do so by either the Council, or the President. Where possible a Councillor is required to provide their request to attend electronically, direct to Council. However, where this may not be possible, because the request has to be made at short notice, the Councillor may provide a request to attend a meeting electronically, to the President.

This policy promotes a preference for "in person" attendance where that is practical for individual Councillors, but acknowledges the legislative right of each Councillor to apply to attend electronically, up to 50% of these previously decided to be "in-person/non-electronic" Council or a Committee meetings using electronic means during any rolling 12 months period. This policy also acknowledges the legislative right of the President to unilaterally decide if a Councillor can attend a previously decided to be "in-person/non-electronic" Council or a Committee meeting using electronic means, but requires the President to only utilise that power using similar considerations outlined in this policy as for any other urgent request considered directly by Council. The President is permitted to authorise their own electronic means meeting attendance, but they are encouraged as a preference, to either apply for a Council authorisation if circumstances permit, or alternatively to refer their request to the Deputy President [acting under Section 5.34 of the Act] for consideration.

This policy requires that the President, in considering whether an individual Councillor may attend a meeting electronically, must make their decision based on the priority needs of the Council, before providing for the convenience of individual Councillors, so that consideration must follow the below process:

1. Firstly, consider the outcome that best provides for the overall needs of the district, the Council, and the Shire; then



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2. Secondly, take into account any likely future conflicts relevant to the 50% cap on either Councillor requested or Council endorsed electronic meetings (so meeting decision making capacity is optimised); and then
3. Thirdly, ensure that the maximum number of Councillors can be in attendance at its meetings (and particularly at key meetings like the budget meeting), and then
4. Fourthly, consider the individual needs of the applicant Councillor.

**Authorisation of Councillor's meeting attendance location:** The Council/President is required to consider the location from which a person intends to attend the meeting with respect to their ability to effectively engage in deliberations and communications during the meeting.

The Shire has two sites with good quality digital access facilities, the Derby Council Chamber, and the Fitzroy Crossing Administration Centre's Meeting Room. Councillors are encouraged to use these facilities for those occasions where the meeting is held electronically. In instances where a Councillor cannot reasonably attend either of those two locations, the following should be established by the Councillor for the period of the electronic meeting:

1. the location is quiet and private (e.g. a private room in their house); and
2. if there will be other people at the location at the time of the meeting, there must be a door that can be closed during the meeting that maintains suitable levels of confidentiality, and preferably, the Councillor also wears headphones.

If the Council/President is not satisfied that the location can suitably provide (1) and (2) above without compromising the needs of Council, or that for any other reason the Councillor cannot effectively engage in meeting's deliberations and communications, then authorisation cannot be granted.

**Equipment to enable Councillor attendance:** In deciding whether to authorise a Councillors remote attendance, the Council, or the President, must also consider whether the Councillor's equipment will support Council's preferred choice of electronic communication. The Council takes responsibility for providing individual Councillors with the necessary hardware for internet access to *Microsoft Teams*. Also, to have sufficient resources and capacity to coordinate the meeting's digital requirements from the meeting's primary location (vis. generally the Derby Council Chamber).

**Councillor declaration of a suitable meeting location for the purposes of Confidential Items using remote electronic attendance:** A Council cannot authorise it to occur, and no Councillor is permitted to attend a closed meeting, or the closed portion of a meeting, unless the Councillor declares (and the declaration must be recorded in the minutes of the meeting) they and their location can maintain confidentiality. If confidentiality cannot maintained, the Councillor must leave the meeting (if its only consideration is confidential items closed to the public) or the closed part of the meeting.

**External Parties Participating in Closed Meetings/Closed Portion of a Meeting:** Where external parties are invited to participate in a closed part of an electronic meeting (such as auditor attending an Audit Committee electronic meeting), before being approved to attend by a resolution of the meeting, they are to first confirm they have met the electronic means, location and equipment suitability requirements of this policy, including maintaining confidentiality.

**Electronic Meetings Register and Schedule/Control Table:** To monitor electronic meetings, and attendances, and for appropriate records keeping purposes, this policy requires that the CEO maintain a Register and a meeting agenda schedule/control table. The Register must suitably record Council, Committee, Councillor, and CEO considerations, and record attendances at electronic meetings. A suitable schedule/control table must also be incorporated into in the relevant Council/Committee



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agendas/minutes, so that a record over the past “rolling 12 months” period can be easily considered during deliberations on electronic meeting applications. The purpose of the Register and the schedule/control table, is to ensure that both the 50% limit of Council endorsed electronic meetings, and the “additional” 50% limit of Councillors’ electronic means attendance of in-person meetings, is not exceeded over the past “rolling 12 months” period.

Where the President makes the decision on Councillor attendance by electronic means, the President is to advise the CEO of that decision so that a record (e.g. email communication) is established and the Electronic Meetings Register and Schedule/Control Table can be updated.

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