

9.2 - Notice of Motion – Improving Council Transparency and Accountability (SJ4090)

Councillor	Councillor Byas
Disclosure of Officers Interest:	No Officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Notice of Motion

A Notice of Motion was received from Councillor Byas via email on Monday, 27 November 2023.

The Notice of Motion is “That Council:

1. REQUESTS that the Chief Executive Officer AMENDS Council Policy 1.1.14 – Forums of Council – Policy Concept Forums, Question and Answer Agenda Forums and Workshops:

- a) to open Question and Answer sessions to the public by:

- i) DELETING paragraph:

“QAAF’s shall not be open to the public and therefore no debate on the items shall be entered into during the QAAF’s there shall be no opportunity for a collective Council decision or implied decision that binds the local government. Fundamental to this decision is that any debate shall be held at Council meetings so as to ensure the public in attendance at a Council meeting can see and hear the decisions and debate around Council decisions.”

and INSERTING:

“QAAFs shall be open to public but no debate of items shall be entered into to ensure the integrity of the Council Meeting as the decision-making forum of Council prescribed in legislation.”

- b) to open Policy Concept Forums to the public by:

- i) DELETING paragraph:

“Behind Closed Doors

Behind closed doors and in a relatively informal manner are the two notable characteristics of concept forums. Holding such meetings behind closed doors is justified in that many of the ideas and concepts are preliminary and while looking for that creative gem some may be extreme, expensive or impractical and never adopted.”

and INSERTING below “Managing Policy Concept Forums”:

“Policy Concept Forums shall be open to the public with external presentations organised by prior arrangement with the approval of the President. The Presiding Member at the meeting, in consultation with the CEO, shall have the sole discretion of deciding whether the meeting, wholly or in part, is to be closed to the public and no recording made. The Presiding Member will provide written confirmation to all Council

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on their reason for the decision prior to the meeting (for example, item/s relate to matters that are commercial-in-confidence, etc.).”

- c) to open all workshops and forums of Council, including but not limited to Budget workshops, by:

- i) INSERTING below Managing Workshops:

“All workshops shall be open to the public with any external presentations organised by prior arrangement with the approval of the President. The only exception being those workshops associated with the CEO Employment Committee.”

- d) to enable presentations by external parties related to Agenda items to occur at Q&A sessions by:

- i) INSERTING new paragraph:

“Presentations

The President may approve a presentation by external parties regarding an Agenda item. The presentation is not to exceed a period greater than 15 minutes. A request to present must be made to the Chief Executive Officer. Presentations at Q&A do not restrict the capacity to request a Deputation under the Shire Standing Orders. No debate or discussion of the presentation is permitted but members may ask questions of the presenters and Officers.”

2. REQUESTS that the Chief Executive Officer AMENDS Council Policy 3.3.11 - Recording of in-person Council and Committee Meetings:

- a) to record, and publish the recordings of:

- i) all Question and Answer sessions;
- ii) Policy Concept Forums; and
- iii) all other forums and workshops open to the public.

- b) by AMENDING Policy 3.3.11 from:

“The audio of the proceedings of all Council and Committee meetings within the scope of this policy are to be recorded.”

to read:

“The audio of the proceedings of all Council and Committee meetings, Question and Answer sessions, Policy Concept Forums, and all other forums open to the public within the scope of this policy are to be recorded and published. If the Presiding Member has decided that part or all of Question and Answer sessions, Policy Concept Forums, and other forums are to be closed to the public, then no recording will be made or published.”

**Relevant Previous Decisions of Council**

Ordinary Council Meeting – 20 June 2022 – OCM121/06/22 - COUNCIL RESOLUTION / Officer Recommendation

That Council:

- 1. ADOPTS Council Policy 3.3.11 – Recording of in-person Council and Committee meetings contained in attachment 1.*
- 2. RESOLVES that the proceedings of Council and Committee Meetings will be recorded in accordance with the policy contained in attachment 1 with the recordings published on the Shire’s website with the unconfirmed minutes of each meeting.*
- 3. NOTES the constraints and limitations associated with the recording as set out in the policy and report.*
- 4. NOTES that in accordance with Council Resolution OCM165/06/20 made at the 21 June 2020 Ordinary Council Meeting that the capacity to record and stream video from Council and Committee meetings has been included within the scope of investigations into future Shire building requirements.*

Officer Comment

The notice of motion proposes three separate but interconnected proposals which are:

- opening Question and Answer sessions, Policy Concept Forums and other workshops to the public;
- enabling the public to make presentations at Q&A;
- recording the proceedings of Question and Answer sessions, Policy Concept Forums and other workshops and publishing these on the Shire’s website.

Officer comment on these proposals is provided below:

Opening Question and Answer sessions, Policy Concept Forums and other workshops to the public

Currently, Question and Answer sessions, Policy Concept Forums and other workshops are not open to the public.

Overall, Officers do not object to opening Question and Answer sessions to the public but have reservations regarding opening Policy Concept Forums and other workshops to the public.

One of the rationales for not holding Policy Concept Forums in the public is set out in Council Policy 1.1.14 - Forums of Council – Policy Concept Forums, Question & Answer Agenda Forums and Workshops where it states:

“Behind closed doors and in a relatively informal manner are the two notable characteristics of concept forums. Holding such meetings behind closed doors is justified in that many of the ideas and concepts are preliminary and while looking for that creative gem some may be extreme, expensive or impractical and never adopted.”

Another rationale is that Policy Concept Forums often involve presentations from external entities, including representatives from Government agencies who are not authorised to speak publically about government projects. State public servants, for example, would be prohibited from making public comment regarding projects which could limit the information provided to Council.



In contrast, publically open Q&A sessions are not uncommon in larger local governments. In these cases it is important that portions of the Q&A required to discussion confidential items under section 5.23 of the *Local Government Act 1995* are closed.

While noting the importance of transparency in decision making, Officers contend that good government processes inherently involves the free exchange of ideas occasionally behind closed doors. This is a key feature of Westminster Government in the form of Cabinet which operates in both Commonwealth and State Government executive levels of Government. The Commonwealth Government states that confidentiality: *“Ensures that members Cabinet may exchange differing views and achieve outcomes together”*.

Officers also have concerns that opening Policy Concept Forums and workshops to the public may have an unintended consequence of politicising Council discussions necessary for the orderly conduct of the local government.

Where matters are discussed at a public Policy Concept Forum or workshop the public may be of the misunderstanding that a decision has been made.

Enabling the public to make presentations at Q&A

Officers understand that the rationale for this proposal is to provide an opportunity in addition to public statements and deputations to occur well in advance of the meeting.

While appreciating the motivation behind this proposal, Officers have reservations given the limited time between the publication of the notice paper for the meeting (Friday) and the Q&A session (Monday).

This timetable provides almost no practical timeframe for potential presenters to be advised of the opportunity to present, to apply for approval to present and to prepare their presentation.

It could also lead to the scenario of proponents and opponents of a proposal providing claim and counter-claim at the Q&A and reprosecuting their arguments at the Council Meeting. It could also blur the lines between the decision-making function of Council meetings and would also add considerable duration to Q&A meetings.

Recording the proceedings of Question and Answer sessions, Policy Concept Forums and other workshops and publishing these on the Shire’s website.

Having initially commenced with Council and Committee meetings held electronically, all Council and Committee meetings in the Shire have been audio recorded commencing at the 20 June 2022 Ordinary Council Meeting in accordance with Council Policy 3.3.11 – Recording of in-person Council and Committee Meetings.

The Shire’s current approach exceeds current requirements although from January 2025 all band 1 and 2 local governments (which includes the Shire) will be required to live stream both video and audio of Council and Committee Meetings.

Officers do not support expanding the recording to matters beyond Council and Committee Meetings. The purpose of recording meetings is record the decision making of Council and Committees. PCF, Q&A and workshops are not decision making bodies and the recording of these meetings would be a significant restriction to the free exchange of ideas and questions and may inhibit the capacity of Officers to provide frank and fearless advice to Council.

The requirement to record Q&A, PCF and workshops would also reduce the capacity of the Shire to hold these fora in locations other than Council Chambers as other venues will not necessarily have the capacity to audio record.



Attachments (available under separate cover)

Nil.

Voting Requirements: Simple Majority

Councillor Recommendation

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a) to open Question and Answer sessions to the public by:

i) DELETING paragraph:

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and INSERTING:

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and INSERTING below “Managing Policy Concept Forums”:

“Policy Concept Forums shall be open to the public with external presentations organised by prior arrangement with the approval of the President. The Presiding Member at the meeting, in consultation with the CEO, shall have the sole discretion of deciding whether the meeting, wholly or in part, is to be closed to the public and no recording made. The Presiding Member will provide written confirmation to all Council on their reason for the decision prior to the meeting (for example, item/s relate to matters that are commercial-in-confidence, etc.).”

c) to open all workshops and forums of Council, including but not limited to Budget workshops, by:

i) INSERTING below Managing Workshops:

“All workshops shall be open to the public with any external presentations



organised by prior arrangement with the approval of the President. The only exception being those workshops associated with the CEO Employment Committee.”

- d) to enable presentations by external parties related to Agenda items to occur at Q&A sessions by:

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Alternative Officer Recommendation

That Council:

That Council AMENDS Council Policy 1.1.14 – Forums of Council – Policy Concept Forums, Question and Answer Agenda Forums and Workshops:

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Continued

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and INSERTING:

“QAAFs shall be open to public but no debate of items shall be entered into to ensure the integrity of the Council Meeting as the decision-making forum of Council prescribed in legislation. Meetings shall be closed to the public by the Presiding Member when discussing matters under the provisions of section 5.23 of the Local Government Act 1995”