



# Ordinary Council Meeting – 16 August 2021 – 9.2 - Notice of Motion – Electronic participation at Council and Committee meetings

## 9.2 - Notice of Motion – Electronic participation at Council and Committee meetings (SJ3414)

<b>Councillor</b>	Councillor Coales
<b>Disclosure of Officers Interest:</b>	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 Coales via email on Monday, 9 August 2021.

The Notice of Motion is “That Council REQUEST that the Shire President write to the Minister for Local Government to advocate that the Minister amend the *Local Government (Administration) Regulations 1996* to permit Councillors and Committee Members to attend Council and Committee meetings via electronic means in any circumstance that would otherwise preclude their attendance in person.”

### Officer Comment

Currently, the *Local Government Act 1995* provides that to be present at a Council meeting that a person must be physically present, unless one of following circumstances apply under the *Local Government (Administration) Regulations 1996 (Administration Regulations)*:

- Attendance by telephone under (Regulation 14A)
- Attendance by telephone after natural disaster (Regulation 14B)
- Attendance by electronic means in public health emergency or state of emergency (Regulation 14C).

Electronic attendance outside of the provisions of the Administration Regulations is not permitted.

In 2019, the Department of Local Government released a discussion paper considering possible reforms to the Administration Regulations. The issues associated with remote attendance discussed in the Department’s paper were as follows:

#### *“Remote Attendance*

*Currently regulations allow council members to attend council meetings remotely in specific circumstances. To be eligible for remote attendance, the person (unless they have a disability) must be located in a council-approved place in a townsite that is at least 150km from the meeting venue. Even if a person is eligible, it is the council’s decision whether they approve the remote attendance or not. A council is also not permitted to have members attend remotely for more than half of the meetings in a given financial year.*

*A member is present if they are in audio contact, by telephone or other means, with the other members of the meeting. The advancement of technology has made video calls part of everyday life and this should be reflected in modern meeting practices. Remote attendance is of particular benefit in remote areas where elected members would otherwise have to travel great distances to be present.*

### Contact Us

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*What are the opportunities for reform?*

*Expanding the instances in which remote attendance is allowed will help to ensure that local issues are heard and voted on by all elected members. It may also reduce the number of instances in which a quorum is not present, thereby allowing the local government to run more effectively.*

*Reducing, or removing altogether, the 150km distance requirement may improve outcomes for elected members and the community. This increased flexibility may facilitate more efficient use of councillor's time and possibly encourage a larger pool of individuals interested in nominating to become an elected member.*

*The advancement of modern technology allows individuals to be in contact with the members present at the meeting from anywhere in the world. In modern times, the requirement that a councillor be in an approved townsite does not appear to serve a functional purpose.*

*There is some ambiguity as to whether the person must be within their local government district to attend remotely. This is not specified within the current Act, however there is an interpretation that a person must be within Western Australia for Western Australian law to apply. There is then a potential opportunity to expand the legislation to allow individuals to participate from interstate or even internationally by specifying that the law that applies is the law in the jurisdiction of the district.*

*A potential issue with remote attendance arises when a secret ballot is required. As they would have to submit the vote electronically or on the phone, it would be very easy to identify the remote attendee's vote. This issue could be remedied by implementing electronic voting for all council members. It is also arguable that in-person attendance aids in promoting trust and relationship-building between council members.”*

The consultation report subsequently published by the Department noted:

*“While there was some strong support from local governments (both metropolitan and regional local governments) to relax the current rules around remote attendance, others were of the view that in person meetings were preferable. Feedback was also received about the restrictive nature of the current legislation where a person has to be located in a “townsite” to participate in meetings remotely.”*

At the time the Minister did not amend the Administration Regulations as part of the *Local Government Act 1995* review but in response to the COVID-19 pandemic in 2020, amendments were made that permit electronic attendance under specific circumstances during a public health emergency or state of emergency.

In July 2021, changes were made to the audio-visual equipment in Council Chambers to permit attendance via audio means. Video conferencing in Chambers is not available at this time.

The current technology employed in Council chambers is constrained by physical realities of chambers from an acoustic perspective which is exacerbated when rain occurs. Future-proofing Chambers into the future is a key consideration in the design of the new Council Chambers building.

Meetings with an electronic participant also require an effective connection between the physical meeting participants and all electronic participants. This connection will only be as good as the weakest connection.



As highlighted in WALGA's guide 'Good Governance in Practice – Electronic Council Meetings' participation by electronic means does require modification to meeting practices and procedures. As stated in WALGA's guide:

*“Administration Regulation 14A specifically defines a ‘suitable place’ to be used by a Council Member, which must be approved before they can attend a meeting by telephone. The same principle applies to eMeetings too, as the suitability of the ‘place’ may impact the confidentiality of matters behind closed doors, and otherwise risk Council Members being interrupted during the meeting.”*

WALGA's guide goes on to highlight modifications to behaviour and meeting practices are required for effective meetings with electronic participants. These points reflect the difficulties that can arise in maintaining order in a meeting with electronic participants, keeping an accurate record of departures from the meeting (for example due either to technological issues or departures as a result of a declared financial or proximity interest), limitations on traditional debate and compromises to voting conducted at the meeting.

While none of these elements are considered to rule out the concept in its entirety, as noted in WALGA's guidance material, a meeting conducted with non-physical participants is different from a meeting where all are physically present and is to a degree compromised. To this point, WALGA's guidance material states: *“Participating in an electronic meeting will be more difficult for Council Members to follow; this particularly so for the Minute Taker.”*

This may be why despite increasing acceptance of electronic meetings, regulations permitting their wider use for local government have not been made to date.

At the same time with technological improvements such as video conferencing into the future, the various impediments and complications associated with Council being able to undertake its quasi-judicial functions in accordance with legislation with a combination of physical and electronic attendees are likely to diminish.

Council has previously resolved that investigations should be taken into improving audio visual technology as part of design of new Council Chambers. These improvements could include greater capacity to facilitate remote participation by a portion or all Councillors and/or the public gallery within the parameters established in legislation for the legal conduct of meetings.

**Voting Requirements:** Simple Majority

### **Councillor Recommendation**

**That Council REQUEST that the Shire President write to the Minister for Local Government to advocate that the Minister amend the *Local Government (Administration) Regulations 1996* to permit Councillors and Committee Members to attend Council and Committee meetings via electronic means in any circumstance that would otherwise preclude their attendance in person.**