

MESSAGE FROM THE MINISTER
(To Elected Members and CEOs)

**LOCAL GOVERNMENT (ACCESS TO MEETINGS AND DOCUMENTS)
AMENDMENT BILL**
Introduction

On 24 October 2002 I introduced the Local Government (Access to Meetings and Documents) Amendment Bill.

You can access the Bill as introduced and second reading explanation via the Parliament website <http://www.parliament.sa.gov.au/> . (For the Bill select "House of Assembly", and then "Bills", and type the title of the Bill in the search box. For the explanation select "Hansard", then "House of Assembly Hansard" and select 24 October 2002 or search by the title of the Bill.) A link to the Parliament website is also available on the OLG website <http://www.localgovt.sa.gov.au/> .

I would like to thank those Councils that made submissions on the draft consultation Bill, particularly those that responded to the invitation to include information about their practices in relation to public access to meetings and meeting documents and suggestions for how these could be improved across the sector.

Changes made to the Bill for introduction on the basis of the consultation that occurred and further consideration by the Government are set out below.

- Removal of the amendment that a Council that has a principal member chosen from amongst its members cannot choose the title "Mayor" for that office.

Note – if any Council that has a principal member chosen from amongst its members is considering choosing the title "Mayor" for that office, and has obtained advice that the current Act does not prohibit this, it should take care that members of the public, advisers and officials are not misled by this title (for example, by noting on the Council meeting agenda that their principal member is a chairperson for the purposes of s86 (7) of the Act with a deliberative vote and not a casting vote).

- The inclusion of a provision that sitting Councillors who unsuccessfully contest a supplementary election for a different office on Council will retain their former positions instead of losing office at the conclusion of the supplementary election, if the vacancies that would otherwise be caused by them losing office arise within 5 months of polling day for the next periodical local government elections and consequently would not be filled.

Note – no Council member who nominates for another position on the Council in a supplementary election currently underway should rely on

this proposal being passed and brought into force in time for it to apply to them.

- Removal of the current requirement for the CEO to consult with the presiding member before providing advice to members, in preparing an agenda and papers for a Council or Council committee meeting, on items which the meeting may choose to consider in confidence.

Note – CEOs should avoid creating the impression that the decision to consider information in confidence has effectively been made, or automatically must be made. The purpose of these provisions is to alert members to the nature of the item or information so that they can consider their responsibilities, and to remove the obligation to make documents or reports, or parts of these, that the meeting may subsequently decide to consider in confidence available to the public prior to the meeting's decision. In preparing the agenda for a meeting, CEOs should not omit references to items that the meeting may determine to consider in confidence or simply describe or mark these "Confidential". As far as is reasonably practicable, items on the agenda must be described with reasonable particularity and accuracy (s83 (5), s87 (9)). CEOs should include as informative a description of these items as is possible without compromising the meeting's subsequent decision as to whether or not to consider the matter, or some aspect of it, in confidence. Likewise, unless a Council or committee meeting has previously made an order under s91 (7) to keep the document confidential, documents or reports that are to be considered at a meeting should not be simply marked "Confidential". The CEO's indication should be that the meeting may, if it so determines, consider the item, document or report, or some aspect of it, in confidence, and the basis on which an order could be made must be specified (s83 (5), s87(10)) in a way intelligible to the members and to the public.

- Merging of the draft s90 (2a) designed to reinforce the principle of maximum public access to meetings into existing s90 (2).
- Expansion of the definition of "personal affairs" in proposed s90 (9) to include specific references to health and personnel matters relating to that person.
- Replacement of the draft "threatened" litigation in s90 (3) with "litigation the council or council committee believes on reasonable ground will take place".
- Slight changes to the wording of the ground in s90 (3) relating to information provided on confidential basis by or to a Minister, public authority or official to make its meaning clearer.
- Provision for Councils to review their code of practice for the use of sections 90 and 91 after each periodical election instead of annually.

- The addition of a new section specifying that the Ombudsman can review Councils' practices and procedures in relation to meetings and informal gatherings, corresponding to the "audit" power contained in the Ombudsman (Honesty and Accountability in Government) Bill currently before the Legislative Council, to respond to both public concern about informal gatherings and local government submissions that more best practice information was required.
- The inclusion of further technical amendments to overcome unintended consequences of section 159(5)– considerations a Council must apply to individual applications for rebates if the amount of the rebate is not specifically fixed by the Act. Some Councils have received advice that these considerations must be applied to all rate rebates provided at the discretion of Councils. The amendments ensure that it is not necessary to do so in relation to those discretionary rate rebates for which the empowering provision already sets out a rationale.
- Provision that the fee charged by Councils for copies of documents to which the public is entitled under the Act must not exceed "a reasonable estimate of" the direct costs involved in providing the information.
- Extension of the period by which the Adelaide City Council is required to prepare a management plan for the Adelaide Park Lands from 1 January 2003 to 1 January 2005, consistent with time allowed other councils.
- Provision that the information to be included in councils' annual reports on the use of sections 90 and 91, and FOI applications, will be prescribed in regulations rather than set out in schedule 4.
- Clarification of the definition of "representation ratio" in schedule 4 by substituting "members" for "councillors".

I look forward to having your Council's support for the passage of the Bill.

If you have any specific queries in relation to the Bill or submissions made by your Council please contact Jenny Gerlach at the Office of Local Government on telephone 8207 0604 or email gerlach.jenny@saugov.sa.gov.au .

Hon Jay Weatherill MP
Minister for Urban Development and Planning
Minister for Local Government
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