



**CITY OF VINCENT**

# **FORUM GUIDELINES**

Adopted at the Ordinary Meeting of Council held on  
10 August 2004

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## 1. INTRODUCTION

- 1.1 Since the inception of the City in 1994, various formats and procedures have been used to allow Elected Members and Officers to meet and discuss matters relating to the operation and affairs of the City outside of the formal council meeting framework.

This has been done through an informal meeting process, including *briefing* or *information sessions*, *workshops* and *corporate discussions*. The term “*forum*” will be used to encompass such meetings.

- 1.2 The forum approach has allowed the ordinary meeting of council to focus on the decision-making needs of the City. These guidelines are designed to assist the Council by listing appropriate procedural and behavioral controls for such Forums and will be under the auspices of the Local Government Act 1995 and relevant regulations and the City of Vincent Local Law Relating to Standing Orders (*Part 4*). The adoption of such controls should reassure the community that the council decision-making mechanisms are accountable, open and transparent and in accordance with legislative requirements.

## 2. PRINCIPLES OF THE ACT

- 2.1 The Local Government Act 1995 (Part 5 ) sets out the framework whereby Elected Members meet as the governing body for the purpose of decision-making on behalf of the City.

- 2.2 It is an intention of the Act that Councils conduct business and make decisions:

- openly and transparently;
- with a high level of accountability to their community;
- efficiently and effectively;
- with due probity and integrity;
- acknowledging relevant community input;
- with all available information and professional advice; and
- with the fullest possible participation of Elected Members.

- 2.3 It is a legal requirement that **all decisions** made on behalf of the local government **are to be made only at Council meetings** called and convened under the provisions of the Act.

## 3. COUNCIL FORUMS

The City will operate forum sessions which will cover the following:

### 3.1. Concept Forums

*"Concept Forums"* involve Elected Members and employees meeting to propose, discuss and formulate philosophies, ideas, strategies and concepts for the development of the City.

Examples of the type of issues concept forums may include:

- current matters of a local or regional significance;
- matters relating to the future development of the City;
- significant revenue-raising requirements or expenditure needs;
- the development of internal strategic, planning, management and financial documents; and
- development of the selection criteria and performance objectives for the Chief Executive Officer (CEO).

In discussing such items, Officers will acknowledge the Elected Members' feedback and comments and this will be researched for inclusion into the final report which will be considered at a subsequent Council Meeting.

Concept forums will not normally be open to the public

### **3.2 Agenda Forums**

*"Agenda Forums"* are for specific major agenda items which are to be considered by the Council at a forthcoming meeting.

These are matters which are of complexity or magnitude which may involve considerable discussion and/or explanation (eg large or significant developments).

Deputations by developers will be considered in this category. The relevant precinct groups and affected ratepayers and residents will also be able to make a presentation to present the community's view. Where there is no established precinct group covering the area of the proposed development, any affected ratepayer or resident will be able to present their views.

Procedures Specific to Agenda items at forthcoming meetings:

- Items to be addressed will be limited specifically to the matters which are proposed to be listed on a forthcoming agenda, at a date to be determined by the CEO.
- Briefings will only be given by employees or consultants for the purpose of ensuring that Elected Members and the public are more fully informed.
- There shall be no "debate style" discussion at these forums as this needs to take place in the ordinary meeting of council when the matter is set for decision.

Agenda forums will normally be open to the public.

### 3.3 Public Interest Forums

*"Public Interest Forums"* are for topics of significant interest, identified by the Elected Members or the CEO

These are matters which have been identified by Elected Members or the CEO which require additional background information, are of a complex nature or are of a lengthy duration. Examples include:

- City Planning scheme matters;
- Heritage;
- Draft budgets;
- Principal Activities Plan.

Presentations by external persons or organisations will also be considered in this category.

Public interest forums will normally be open to the public.

## 4. PRINCIPLES GOVERNING PROCEDURAL AND BEHAVIOURAL CONTROLS FOR FORUMS

The principles and associated protocols set out below will ensure that all requirements of accountability, openness, transparency, probity and integrity, for the forum procedures and conduct are strictly adhered to at all times.

### 4.1 Forum Procedures and Protocols

The specific clauses of the City of Vincent Local Law Relating to Standing Orders (as amended to meet the needs of forums) as shown in Appendix 1 will apply to forums;

### 4.2 Accountability

4.2.1 The Act requires that ordinary and special council meetings (and committee meetings that have delegated authority) must be open to the public. This openness allows the community to view the decision-making process from the time an issue is first presented to Elected Members through to the final decision.

It is important there be no opportunity for a collective council decision or implied decision that binds the City, to be made during a forum.

4.2.2 Forums are primarily for Officers or other persons to present information and for Elected Members to ask questions, not for opportunities to debate the issues. Elected members are strictly prohibited to debate or carry out vigorous discussion that could be interpreted as debate at forums.

#### **4.3 Openness and Transparency**

- 4.3.1 A significant strength of the City is its openness and accessibility of its processes to the community. In conducting forums, the City will make a conscious decision to promote the community perception that it embraces the concept of openness and transparency.

Forums for topics of significant interest and specific agenda items to be addressed at a forthcoming council meeting will therefore normally be open to the public.

Concept forums will not normally be open to the public. However, in some circumstances, the information may subsequently be made available at a forum open to the public (either at a separate forum or by inclusion into the Information Bulletin of the Council Agenda).

#### **4.4 Probity and Integrity**

- 4.4.1 The Local Government Act 1995 and its regulations provides that in meetings, Elected Members, employees, consultants or other participants must disclose conflicts of interest and exclude themselves from proceedings where they have a financial or proximity interest. Disclosure requires an individual to depart the forum. Interests of Impartiality must also be recorded by the CEO.
- 4.4.2 Disclosure in forums is a matter of ethics however, the principles of the interest provisions of the Act will apply to the City's Forums and the CEO will record any declarations in a Forum Register

#### **4.5 Authority for the Chair**

Properly managed forums rely on strength and leadership from the chair. Forums will therefore be chaired in accordance with the City's Standing Orders:

- Questions must therefore be asked through the chair;
- Free-flowing discussion between Elected Members is not permitted.

#### **4.6 Meeting Notification**

- 4.6.1 The provisions of the Act are designed to ensure that Elected Members are given timely notice of, and information for, council and committee meetings. Formal provisions do not apply to forums, however, the City's Standing Orders meeting notification requirements will apply in relation to the time, date, location and content of the forum.
- 4.6.2 Forums will be held on a regular basis such as an alternative third week to the ordinary council meeting. The dates will be advertised in accordance with the Council policy relating to Community Consultation.
- 4.6.3 The Mayor, in liaison with the CEO will set the topics for such forums.

## **5. PARTICULAR ISSUES OF CONCERN IN THE FORUM PROCESS**

There are a specific number of concerns relating to the content and conduct of forums. These are set out below:

### **5.1. Dealing with Proposals under the City Planning Scheme**

The discretion available to Council when making decisions under the Act is not always available when making decisions under City planning legislation. When the Council is dealing with City planning matters, it does so under the powers conferred by the State planning legislation. Council assumes the role of a planning authority (ie Western Australian Planning Commission) and an Elected Member the role of a planning commissioner. Council is not only constrained by the conditions of its City Planning Scheme but also by the relevant State Acts.

Decision-making in City planning matters requires the decision-maker to maintain a high degree of independence from the process leading up to the decision being made. The Elected Member needs to be in a position of being able to make his or her decision after taking into account the relevant and material facts and circumstances as presented to all fellow Elected Members. Elected Members need to be wary of involvement in the lead-up process to a certain decision, especially as a sole agent or member of a small group and being subjected to information from a developer or parties associated with the developer. This may be interpreted as reducing the independence of the decision-maker.

Councils will often have forums/briefings relating to development issues and these are important in terms of the Elected Members becoming fully informed on the matter on which they have to vote. The nature of the decision means that briefing sessions involving planning matters should be conducted with the strictest of rules. There should be no implication of debate between Elected Members; the session should primarily involve information being given by the relevant officer and other parties with questions from the floor directed through the chair. In cases where an Elected Member has relevant information on a development matter to be conveyed to the meeting, it must be done through the chair so that all decision makers are privy to that information.

### **5.2 Formulating Management Documents**

Documents, such as budgets, principal activity plans and policy manuals are often formulated through a forum. No formal decisions shall be made as in due course the documents are adopted at a formal meeting of Council, at a subsequent date after the forum.

### **5.3 Forums Immediately Prior to an Ordinary Meeting of Council**

Forums will generally not be held immediately prior to ordinary council meetings.

This familiarity with the issues and known attitudes can lead to debate at the ordinary council meeting being stifled or non-existent, particularly to those who are not privy to the earlier discussions.

## **6. CONFIDENTIAL ITEMS**

Some items are required to be kept confidential until finalized by the Council. The Chief Executive Officer, in assigning the confidential status designation, shall do so judiciously in circumstances deemed to be in the public interest and/or the best interest of the Council.

The designation of confidential documents may be assigned to matters such as:

- (i) industrial/personnel matters;
- (ii) legal matters;
- (iii) internal working documents/discussion papers;
- (iv) matters referred to in Local Government Act 1995 such as:
  - matters affecting an employee or employees;
  - the personal affairs of any person;
  - contracts which relate to matters to be discussed at the Council meeting;
  - legal advice obtained on a matter to be discussed at the meeting;
  - a matter that if disclosed would reveal a trade secret; information that has a commercial value to a person, or information about the business, professional, commercial or financial affairs of a person;
  - a matter that if disclosed could be reasonably expected to impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; endanger the security of the local government's property; or prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
  - information which is the subject of a direction given under Section 23(1a) of the Parliamentary Commissioner Act 1971;
  - other matters which may be prescribed from time to time;
  - the reason for a forum to be closed to the public is to be recorded in the details of the forum.



## **7. DECLARATION OF INTEREST PROVISIONS**

The Department of Local Government recommends that Councils adopt a set of procedures for types of forums which include the following:

- Elected Members, Council employees, consultants and Council appointed consultants shall disclose their financial and conflicts of interest in matters to be discussed.
- Interests are to be disclosed in accordance with the provisions of the Act as they apply to ordinary council meetings. Persons disclosing a financial or proximity interest shall not participate in that part of a forum relating to their interest and leave the meeting room.
- There is to be no opportunity for a person with an interest to request that they continue or participate in the forum.

## **8. GENERAL**

### **8.1 Records/Minutes**

A record shall be kept of all forums. As no decisions are made, the record will only be a general record of items covered, however, disclosures of interest with appropriate departures/returns shall be recorded.

### **8.2 Electronic Recording**

Forums will not be electronically recorded.

### **8.3 Venue**

Forums will normally be held in the Council Chamber (which is already set-up for meetings and has a public gallery).

The Mayor, in liaison with the CEO, may determine that a forum be held in the Committee Room or Function Room to suit the specific needs of the forum (eg large public attendance).

### **8.4 Forum Agenda**

The draft agenda for forums is shown in Appendix 2.

### **8.5 Recording of Apologies**

Elected Members who are unable to attend the forum are required to submit their apology to the CEO prior to the forum.

The CEO will record any apologies received in the forum record.

**8.6 Presentation and Deputations**

The Chief Executive Officer, in consultation with the Mayor, shall determine the most appropriate time period to be allocated for each presentation and/or deputation. (However, as a guide, the following is to be used;)

Item	Presentation	Questions & Answers
Small Developments	10 minutes	5 minutes
Medium Size Developments	15 minutes	15 minutes
Large/Complex Developments	30 minutes	30 minutes
Concept Forum Items	At the determination of CEO and Mayor	
Public Interest Forum Items	At the determination of CEO and Mayor	



**FORUMS PROCEDURES AND PROTOCOLS****(Specific Clauses of the City of Vincent Local Law Relating to Standing Orders [as amended] that apply to Forums)***Clause No:***1.5** *Meetings, forums, proceedings and business to be conducted according to Standing Orders*

The meetings, forums, proceedings and business of the Council shall be conducted in accordance with the Act or its regulations and where not specifically prescribed, according to the City of Vincent Local Law Relating to Standing Orders.

Members of the public will not be permitted to ask questions, make statements, address the forum or participate in debate at any forum.

**2.1** *Mayor to preside*

Subject to the Act, the Mayor or in his or her absence the Deputy Mayor, or in his or her absence, a Councillor chosen by the Councillors present, is to preside at any forum.

**2.2.1** *Notice of ordinary meetings*

Notice of Forums are to:-

- (i) be given to Members in writing;
- (ii) be signed by or on behalf of the CEO;
- (iii) state the place, date and hour of the forum;
- (iv) state the agenda of the forum; and
- (v) be transmitted by post, or electronic mail or delivered to the Members at the usual or last known place of residence or business, or to another address any Member may request in writing to the CEO, together with an agenda at least seventy-two (72) hours before the time of the commencement of the meeting.

**2.2.2** *Notice of adjourned forums*

When a forum is adjourned, notice of the adjourned forum is to be given in the manner provided by the Standing Orders and at least twenty-four (24) hours notice is to be given before the time of commencement of the adjourned forum.

**2.18** *Declaration of interests***2.18.1** *Interests to be declared*

Any person who has an interest, within the meaning of the Act, in a matter proposed to be discussed at any forum is to declare the interest and the nature of the interest, in accordance with the provisions of the Act.

**2.18.2** *Dealing with a person's interest*

The forum shall deal with a person's interest in a matter to be discussed at a forum in accordance with the provisions of the Act. (PART 5 Division 6). However, a person who has declared an interest must depart the forum room and shall not participate or be present during the Item.

*2.18.6 Disclosures by employees*

- (1) If an employee within the meaning of section 5.70 of the Act presents a written report to a forum, on a matter in which the employee has an interest, the nature of the interest is to be disclosed at the commencement of the report.
- (2) If such an employee makes a verbal report to a meeting on a matter in which the employee has an interest, the employee is to preface his or her advice to the meeting by verbally disclosing the nature of their interest.

*2.21.1 CEO to prepare reports*

The CEO shall prepare or cause to be prepared for presentation to any forum such reports, with recommendations (if applicable), preamble and information, dealing with any matter which in the opinion of the CEO should be drawn to the attention of the forum.

*3.1.3 Titles to be used*

In referring to any other person present in the capacity of a Member or employee of the Council, a speaker shall designate that person by the title of Mayor or Councillor, or by the title or name of the particular employee, as the case may be.

*3.1.4 Councillors to address Presiding Member*

A Councillor taking part in any discussion at a forum shall address the Presiding Member at any forum.

*3.2.1 Presiding Member to preserve order*

The Presiding Member shall preserve order, and may call any Councillor or person to order, whenever, in the Presiding Member's opinion, there is cause for so doing.

*3.2.2 Definition of order*

Any Member or person who does anything or behaves in a manner which is forbidden by any of the Standing Orders shall be deemed to be out of order.

*3.2.3 Breaches of order*

The following are to be recognised as breaches of order:-

- (i) any conduct or behaviour which is contrary to the Council's Standing Orders; or
- (ii) the use of offensive or insulting language; or
- (iii) any other violation of the Council's Standing Orders.

**3.2.8** *Continued breach of order*

- (1) Where a Councillor:-
  - (a) persists in any conduct which the Presiding Member decides is out of order; or
  - (b) refuses to make any explanation, retraction or apology required by the Presiding Member under sub-clause 3.4.5;

the Presiding Member may direct that Councillor to refrain from taking any further part in the forum. The Councillor shall comply with the direction.

- (2) Any Member of the Council who converses aloud, or makes any noise, or disturbance after being called to order by the Presiding Member, or who wilfully obstructs or interrupts the orderly conduct of business shall, upon the request of the Presiding Member cease to do so. In the event of the Member persistently disregarding the authority of the Chair when requested, the Member may by order of the Presiding Member be removed from the room for the remainder of the forum.

**3.2.9** *Serious disorder*

If at a forum the Presiding Member is of the opinion that by reason of disorder or otherwise the business of the forum cannot effectively be continued, the forum shall be adjourned to a time and date to be set.

**3.2.10** *Presiding Member may be heard*

Whenever the Presiding Member speaks, any Councillor or person speaking or who is about to speak shall be silent so that the Presiding Member may be heard without interruption.

**3.2.11** *Prevention of disturbance*

- (1) No person, shall interrupt or interfere with the proceedings of any forum, whether by expressing approval or dissent, or by loudly conversing or by any other means.
- (2) A person who fails to comply with paragraph (1) when so directed by the Presiding Member, shall immediately leave the room.
- (3) A person directed to leave the room and failing to do so may, by order of the Presiding Member, be removed from the room.
- (4) The direction of the Presiding Member is final and may not be challenged by moving dissent with the ruling.

**3.4.2** *No adverse reflection on Council decisions*

A Member shall not reflect adversely upon any decision of the Council.

**3.4.3** *No adverse reflection on Member or Officer*

A Member shall not reflect adversely upon the character or actions of another Member or Officer nor impute any motive to a Member or Officer.

*3.4.5 Withdrawal of offensive language*

- (1) Any Councillor who uses an expression which in the opinion of the Presiding Member reflects offensively on any Member or Officer of the Council, shall when required by the Presiding Member, unreservedly withdraw the expression and make a satisfactory apology.
- (2) If the Councillor in paragraph (1) declines, or neglects to do so, the Presiding Member may refuse to hear the Councillor further upon the matter then under discussion.

*3.4.6 Disturbances not permitted*

A Member shall not make any noise or disturbance or speak aloud while any other person is addressing the forum.

*3.4.7 Continued irrelevance, repetition, or offensive expressions*

- (1) The Presiding Member may:-
  - (i) call the attention of the forum to continued irrelevance, tedious repetition, unbecoming language, or any breach of order or decorum on the part of a Councillor; and
  - (ii) direct that Councillor, if speaking, to stop speaking;

When directed, the Councillor shall cease speaking.

- (2) A Councillor may call the attention of the Presiding Member to any continued irrelevance, tedious repetition, unbecoming language, or any breach of order or decorum on the part of a Member and may call upon the Presiding Member to direct the Councillor to cease speaking.

*3.4.11 Smoking prohibited*

Smoking in the administration and civic centre or in any forum is prohibited.



**FORUM**  
..... 2014

**NOTICE OF FORUM AND AGENDA**

Dear Elected Member

Notice is hereby given that a Forum will be held at the Administration and Civic Centre, 244 Vincent Street (corner Loftus Street), Leederville, on **Tuesday**, ..... 2014 at **6.00pm**.

**JOHN GIORGI, JP**  
**CHIEF EXECUTIVE OFFICER**  
..... 2014

**DISCLOSURE OF FINANCIAL INTERESTS**

**The Local Government Act 1995:-**

- ◆ requires Elected Members and Officers who have an interest in any matter to be discussed at the Forum to give written notice to the Chief Executive Officer before the Forum or before the item is discussed;
- ◆ requires disclosures to be brought to the attention of the Forum;
- ◆ states that persons who make such disclosures must not participate or be present during any discussion relating to the matter, in accordance with Section 5.68 or 5.69 of the Local Government Act 1995,
- ◆ specifies significant penalties for non compliance with the disclosure provisions.



## **FORUM - ORDER OF BUSINESS**

- 1. Declaration of Opening**
- 2. Apologies/Members on Approved Leave of Absence**
- 3. Declaration of Interests**
  - 3.1 Financial - Local Government Act 1995, s5.60A
  - 3.2 Proximity - Local Government Act 1995, s5.60B
  - 3.3 Impartiality - Local Government (Administration) Regulations, Reg 34
- 4. Forum Items for Discussion**
  - 4.1 Public Interest Forum
    - 4.1.1
  - 4.2 Agenda Forum
    - 4.2.1
  - 4.3 Concept Forum
    - 4.3.1
- 5. Closure**



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## GOVERNANCE POLICIES

### Conduct of Council Forums



Policy Number:	G11
Relevant Delegation:	Not Applicable
Adoption Details:	28 January 2016
Last Review Details:	25 November 2019

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#### **POLICY OBJECTIVE:**

To ensure Council Forums are held in a way that is consistent with principles of transparency and accountability.

#### **POLICY SCOPE:**

This policy applies to all Council Forums involving Councillors.

#### **POLICY STATEMENT:**

#### **INTRODUCTION**

The Local Government Act 1995 (Part 5) sets out the framework whereby Councillors meet as the governing body for the purpose of decision-making on behalf of the Shire.

It is the intention of the Act that Councils conduct business in a way that:

- is open and transparent.
- has a high level of accountability to their community.
- is efficient and effective.
- occurs with due probity and integrity.
- acknowledges relevant community input.
- has all available information and professional advice.
- occurs with the fullest possible participation of Elected Members.

Formal Council meetings are the mechanism by which elected representatives make decisions on behalf of the community. Agendas are primarily focused on reports requiring decision and there is little room, or sufficient flexibility under Standing Orders, to allow more general discussion and exploration of ideas. Traditionally there have been on going opportunities for general exchange of information between Councillors and Council staff under headings like workshops, information sessions or briefings. More recently and under the guidance of the Department of Local Government and Communities, these informal sessions have been collectively described as Council forums.

The absolute defining difference between a Council formal meeting and a Council forum is that Council can only make decisions in formal meetings held under the auspices of the Local Government Act and under Standing orders.

Councillors must also always be open to receiving information and to new ideas prior to making decisions. This means they must also avoid formal debate in a Council forum because of their

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obligation to retain an open mind on a matter in a formal meeting. Any perception that there is a pre-determined position puts this basic democratic principle at risk. Council forums must be seen as essentially information exchange opportunities.

Even though these forums will not involve debate or decision, it is important that they are conducted in a way that is consistent with the intention of the Local Government Act in relation to the conduct of business.

This policy sets out the framework for the conduct of these Forums.

## PRINCIPLES

- (a) debate does not occur at a Council forum.
- (b) decisions will not be made at a Council Forum.
- (c) Councillors will be required to adhere to the same probity standards that apply to formal meetings held under the Local Government Act 1995.
- (d) forums will be managed under the authority of the Chair in accordance with Standing Orders.

## PROVISIONS

### 1. TYPES OF COUNCIL FORUMS

The Council will operate Forum sessions which will cover the following broad areas:

#### Concept Considerations

- 1.1 These will involve Councillors and Council staff meeting to discuss and explore philosophies, ideas, strategies and concepts relating to the development of the Shire. Examples of the type of matters concept forums might canvass are:
  - current matters of a local or regional significance.
  - matters relating to the future development of the Shire.
  - emerging changes to the local government sector and implications for the Shire.
  - cross-agency relationships.
- 1.2 Members of the public will not be present at these forums.

#### Agenda Considerations

- 1.3 These are opportunities for the Chief Executive Officer and Council staff to brief Councillors on upcoming agenda items for formal meetings.
- 1.4 Members of the public will not be present at these forums.

#### Public Interest Forums

- 1.5 The Council may from time to time hold separate Public Interest Forums whereby members of the public can attend to hear the information being provided about a particular matter.

### 2. GENERAL CONDUCT OF COUNCIL FORUMS

- 2.1 The following shall apply to all forums:
    - there will be no debate on any matter.
    - No decisions will be made.
-

- Standing Orders will be followed e.g. all matters will be directed through the Presiding Member.
- no member of the public will be present unless it is at a Public Interest Forum. Members of the public will have no right to speak unless invited to do so by the Chair.

### **Town Planning Matters**

When a Council is dealing with a town planning matter that is the subject of a formal application, it does so under the powers conferred by the State planning legislation. Council assumes the role of a planning authority and a Councillor the role of a planning commissioner. It is essential that in that role the objectivity of the participating Councillors is maintained and protected, so as not to put any decision process at risk.

- 2.2 A precautionary approach will be taken to inclusion of information briefings on a town planning matter which is under application at a Forum. Information exchange and the ability to question on town planning matters will be included only on issues considered significant to a general locality or the Shire as a whole. This will occur under the Public Forum process only.

### **3. DEVELOPMENT OF KEY STATUTORY DOCUMENTS UNDER THE LOCAL GOVERNMENT ACT**

Many local authorities have their initial discussions and undertake the early shaping of their key statutory documents such as the Strategic Community Plan and the Corporate Business Plan through a workshop process. This is highly desirable as it allows Councillors to absorb general information and gradually develop ideas and thinking. While there are no decisions made, it is important that the information provided and the developing ideas are documented.

- 3.1 A summary of key themes arising at a Council Forum involving discussion of integrated planning and reporting requirements or key planning documents will be made, for the purpose of input into any further sessions. This information will also be included as background material in any formal report to Council.

### **PENALTIES:**

Not applicable.

### **KEY TERMS/DEFINITIONS:**

Not applicable.

Responsible Officer:	Chief Executive Officer
Contact Officer:	Executive Manager Corporate & Community Services
Relevant Legislation:	Department of Local Government & Community: Local Government Operational Guidelines, Number 05, 2004

Review History:

<b>Date Review Adopted:</b>	<b>Resolution Number</b>
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Reviewed – 24 October 2016	
Reviewed – 25 November 2019	291119
<b>Former Policy No:</b>	G2.7



Government of **Western Australia**  
Department of **Local Government and Communities**

# Local Government Operational Guidelines

Number 05 – January 2004

## Council Forums

## 1. Introduction

Over recent years many local governments have introduced procedures that allow elected members and officers to meet and discuss matters relating to the operation and affairs of their local government outside of the formal council meeting framework. This has been done through an informal meeting process that has been given a range of titles including briefing or [information sessions](#), [workshops](#) and [corporate discussions](#). For the purposes of this guideline the term “forum” will be used to encompass such meetings.

The forum approach has allowed the ordinary meeting of council to focus on the decision-making needs of the local government. Many local governments that have adopted the forum process in preference to standing committees claim that it has led to better informed elected members and a more efficient and effective decision-making regime. This guideline is designed to assist those local governments that do conduct forums by listing appropriate procedural and behavioural controls. The adoption of such controls should reassure the community that the council decision-making mechanisms are accountable, open and transparent.

Local government forums range from one-off events discussing a particular issue through to regular, structured meetings, albeit not convened under the auspices of the *Local Government Act 1995* (the Act). This guideline is intended to address those forums that are held on a regular basis.

While acknowledging that regular forums are invaluable and legitimate, the Department advises that the conduct of such has generated complaints regarding the potential for a reduced level of transparency in the decision-making process and hence a reduction in accountability to and involvement by the community. Local governments need to make a clear distinction between forums and the formal debate and decision-making process.

It is recognised that local governments may conduct other sessions or workshops which would include items such as team building exercises, strategic planning workshops and community input forums. It is not intended that these guidelines would necessarily be applied to such sessions, but some of the suggested procedural controls may have relevance.

Issues relating to council forums that are addressed in these guidelines include:

- accountability;
- openness and transparency;
- probity and integrity;
- authority for the presiding person;
- participation by elected members and staff;
- proposals under Town Planning Schemes;
- formulating management documents; and
- forums immediately prior to an ordinary meeting of council.

## 2. Principles of the Act

Part 5 of the Act sets out the framework whereby elected members meet as the governing body for the purpose of decision-making on behalf of the local government.

It is an intention of the Act that councils conduct business and make decisions –

- openly and transparently;
- with a high level of accountability to their community;
- efficiently and effectively;
- with due probity and integrity;
- acknowledging relevant community input;
- with all available information and professional advice; and
- with the fullest possible participation of elected members.

The Act establishes ordinary, special and committee meetings. Each council must decide the meeting structure it will adopt within the legal framework for it to achieve the most efficient and effective decision-making process. It is a legal requirement that all decisions made on behalf of the local government are to be made at meetings called and convened under the provisions of the Act.

In addition to ordinary and special meetings, elected members can meet as a committee, membership of which may vary in number from three to all members of council. Committees can discuss matters and make recommendations to the council or, if given delegated authority by the council, can make decisions on its behalf. A council does not need to have committees and can have all matters presented to it directly for decision. A recent trend has been

for councils to abolish the system of standing committees or limit the number and/or range of committees and adopt a forum approach.

## 3. Council Forums

Local government forums range from a once-only event to discuss and explore a particular issue, a number of sessions to address matters such as a specific project or the compilation of a report for internal or external use, through to forums held at regular intervals with a consistent structure and objectives.

Regular forums run in local governments exhibit two broad categories which we have titled agenda and concept. They are differentiated by the stage of development of issues which are discussed by elected members and staff. The two types are described below along with the variations in procedural controls and processes suggested for each.

### Concept Forums

Concept forums involve elected members and staff meeting to propose, discuss and formulate philosophies, ideas, strategies and concepts for the development of the local government and the district. Such forums often involve projects that are in the early planning stage and are some time away from being presented to council for decision. In discussing such issues, staff are looking for guidance from the elected members as they research the matter and draft the report. Elected members and staff are also looking to present ideas and concepts for future consideration. If the response is favourable staff can proceed with their research and eventual report on the matter.

Examples of the type of issues concept forums may cover include –

- current matters of a local or regional significance;
- matters relating to the future development of the local government;
- significant revenue-raising requirements or expenditure needs;
- the development of internal strategic, planning, management and financial documents; and
- development of the selection criteria and performance objectives for the Chief Executive Officer (CEO).

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.

Discussion on such proposals in a public forum would be counter-productive. Privacy and informality allows elected members to propose ideas, ask questions and discuss issues for the better understanding of those in attendance. Such forums assist individuals to become better informed and to clarify their views.

The privacy and informality of concept forums also has pitfalls including the risk of neglecting proper standards of probity and public accountability. Over time, participants can become too familiar, and therefore more lax, with the procedure and purpose of the meeting. Unless procedures are adopted and rigorously applied to these forums, there is a danger that collective or collaborative decisions may be made, implied and otherwise.

## Agenda Forums

For proper decision-making, elected members must have the opportunity to gain maximum knowledge and understanding of any issue presented to the council on which they must vote. It is reasonable for elected members to expect that they will be provided with all the relevant information they need to understand issues listed on the agenda for the next or following ordinary council meetings. The complexity of many items means that elected members may need to be given information additional to that in a staff report and/or they may need an opportunity to ask questions of relevant staff members. Many local governments have determined that this can be achieved by the elected members convening as a body to become better informed on issues listed for council decision. Such assemblies have been termed [agenda forums](#). It is considered they are much more efficient and effective than elected members meeting staff on an individual basis for such a purpose with the added benefit that all elected members hear the same questions and answers.

To protect the integrity of the decision-making process it is essential that [agenda forums](#) are run with strict procedures.

## 4. Principles Governing Procedural and Behavioural Controls for Forums

Local governments that conduct forums or are considering doing so have the right to implement a forum system that best suits their needs. The principles and associated procedures set out below, if adopted by local governments when conducting

forums, will ensure that all requirements of accountability, openness and transparency are satisfied.

The identified principles and associated procedures are accountability, openness and transparency, probity and integrity, authority for the chair and meeting notification. Each of these is explained below.

### **Accountability**

The Act requires that ordinary and special council meetings and committee meetings that have delegated authority must be open to the public. Most local governments also open committee meetings even where there is no delegated authority. This openness allows the community to view the decision-making process from the time an issue is first presented to elected members through to the final decision.

There must be no opportunity for a collective council decision or implied decision that binds the local government to be made during a forum.

Agenda forums should be for staff presenting information and elected members asking questions, not opportunities to debate the issues. A council should have clearly stated rules that prohibit debate or vigorous discussion between elected members that could be interpreted as debate. Rules such as questions through the chair and no free-flowing discussion between elected members should be applied.

If there is minimum debate in the ordinary meeting because the elected member attitudes have been established through the item being thoroughly canvassed in the [agenda forum](#) then the community

is denied the opportunity to witness any debate and understand how the council reached its decision. Other concerns relate to elected members agreeing on movers, seconders and/or amendments. Such an approach must not be allowed by the council whether the [agenda forum](#) is open or closed to the public but a closed forum will almost certainly generate a perception by the community of secret meetings where the decisions are made beyond public scrutiny.

Councils, when considering conducting closed forums, need to consider their reasons for justification against the likely damage to their public standing from the perception of secrecy. A policy that the forums will generally be open to the public will make a significant contribution to the community perception of council accountability. A clearly delineated distinction between agenda and concept forums is important for these reasons.

### **Openness and Transparency**

A significant strength of local government is the openness and accessibility of its processes to the community. In conducting forums each local government should make a conscious decision to promote the community perception that it embraces the concept of openness and transparency. Therefore, whenever appropriate, forums should be open to the public.

### **Probity and Integrity**

The legislation provides that in ordinary meetings and committee meetings elected members must disclose conflicts of interest and exclude themselves from proceedings where they have a financial interest.



Disclosure in forums is a matter of ethics. The disclosure requirements only apply to meetings that are convened under the provisions of the Act. Elected members can legally participate at forums without being in breach of the legislation even where they have a clear financial interest or conflict of interest. Such participation is ethically unacceptable and is clearly at odds with the probity and accountability principles of the Act and codes of conduct. It is essential that councils adopt standards for forums that stipulate that disclosure rules applying to meetings constituted under the Act also apply at all forums. Disclosure should lead to an individual departing the forum.

### **Authority for the Chair**

Many councils have established a forum process without specifying how the forums should be chaired and what authority the chair is given to control proceedings. In some local governments, the CEO chairs the forums in certain circumstances. This latter approach is not supported because it confuses the roles and relationships established in the Act.

It is recommended that the mayor or president or, if appropriate, another elected member, chairs all forums that involve elected members. Properly managed forums rely on strength and leadership from the chair. Therefore, a forum's chair should be supported by established rules similar to the standing orders that apply to formal meetings.

### **Meeting Notification**

The provisions of the Act are designed to ensure that members are given timely notice of, and information for, council and committee meetings. Formal provisions

do not apply to forums but the principles remain the same. Adequate notice needs to be given of the time, location and content of the forum.

The forum process is most successful in those local governments where forums are held on a regular basis such as on the alternative weeks to the ordinary council meeting (where they are held fortnightly) or a week before the ordinary council meeting. By setting the dates for forums well in advance, elected members, staff and the community can plan for their attendance.

Forums that are organised without adequate notice or a proper agenda are often poorly attended and inefficiently run. This will be detrimental to the purpose of the forum.

## **5. Particular Issues of Concern in the Forum Process**

There are a number of concerns relating to the content and conduct of forums. These are set out below. Councils need to be aware of these and take action to overcome the concerns if such apply to them.

### **Dealing With Proposals Under the Town Planning Scheme**

The discretion available to council when making decisions under the Act is not always available when making decisions under town planning legislation. When a council is dealing with town planning matters, it does so under the powers conferred by the State planning legislation. Council assumes the role of a planning authority (ie Western Australian Planning Commission) and an elected member the

role of a planning commissioner. Council is not only constrained by the conditions of its Town Planning Scheme but also by the relevant State Acts.

Decision-making in town planning matters requires the decision-maker to maintain a high degree of independence from the process leading up to the decision being made. The elected member needs to be in a position of being able to make his or her decision after taking into account the relevant and material facts and circumstances as presented to all fellow elected members. These same comments apply whether councils do or do not work with specialist planning committees. Elected members need to be wary of involvement in the lead-up process to a certain decision, especially as a sole agent or member of a small group and being subjected to information from the developer or parties associated with the developer. This may be interpreted as reducing the independence of the decision-maker.

Councils will often have briefings relating to development issues and these are important in terms of the elected members becoming fully informed on the matter on which they have to vote. The nature of the decision means that briefing sessions involving planning matters should be conducted with the strictest of rules. There should be no implication of debate between elected members; the session should primarily involve information being given by the relevant officer and other parties with questions from the floor directed through the chair. In cases where an elected member has relevant information on a development matter to be conveyed to the meeting, it must be done through the chair so that all decision-makers are privy to that information.

## **Formulating Management Documents**

Many local governments prepare their management documents, such as budgets, plans for the future and policy manuals, through a forum process. In many cases this involves a number of forums to which all elected members are invited and the public are excluded. Such forums are not set up under the auspices of the Act. There are no formal decisions made as in due course the documents are adopted at a formal meeting of council. Nevertheless, as the forums proceed and the document is developed, some issues are included, some are discarded and others may need further research by staff. If records of the matters discussed at the forums are not kept, development stages of the documents will be uncertain and hence any orderly progress inhibited. Additionally, the process may lack accountability and the probity of elected members and staff could be challenged. Change of membership of the group by either staff or elected members would again place doubt on the validity of the process.

A more suitable procedural process for the development of management documents would be the formal establishment of a committee under the Act with that assigned purpose. Although the committee meetings, if no power or duty has been delegated to the committee, are not required by legislation to be open to the public, the integrity of the process is protected by the legislative requirement for the agenda and minutes to be available for public inspection. Such committees, upon completion of their assigned task(s), could be wound up or reconvened the following year when the task was again required. Examples would be a committee reviewing standing orders and a "Budget

Committee". The former would be wound up upon submission of its report to council. The "Budget Committee" would be an ongoing but occasional committee which would meet each year from (say) March to early July.

Some committees could have a select and limited membership whereas others (such as the budget committee) could include all elected members.

### **Forums Immediately Prior to an Ordinary Meeting of Council**

Some local governments hold forums immediately prior to ordinary council meetings. Anecdotal evidence suggests that in discussing the agenda of the forthcoming meeting at such forums implied decisions may be made. This familiarity with the issues and known attitudes can lead to debate at the ordinary council meeting being stifled or non-existent much to the chagrin of the public who are not privy to the earlier discussions. Forums held immediately prior to ordinary council meetings cause more complaints of secret meetings and predetermined decisions than any other type of forums.

Pre-meeting forums may be beneficial where an elected member has additional or alternative information to that contained in a staff report which may be controversial or cause problems within the ordinary meeting at the time the item is discussed. Certainly, it is an advantage for the CEO, council and particularly the presiding member to be aware of potential problems in the forthcoming ordinary meeting. While a pre-meeting forum provides the opportunity to inform others of the potential problem it would be preferable to raise the matter with likely concerned

parties such as the presiding member, CEO and reporting officer much earlier than immediately before the meeting. Early advice will give those concerned the opportunity to undertake action to address the identified problems.

It is recognised that with many local governments, especially those that are in rural locations, the timing of the pre-meeting forum is understandable in that the elected members can only get together once a month because of travel time and they need an opportunity to discuss issues with the freedom of a forum.

After consideration of these issues, it is recommended that if a council determines that the only time available for a forum is prior to an ordinary council meeting and it is to be closed to the public, then it be established as a [concept forum](#) and reference to the forthcoming agenda should be prohibited unless a special circumstance is conveyed to the presiding member. An example of a special circumstance would be information additional to, or contradicting the staff report which is likely to lead to non-adoption or significant variation of the recommendation and it has not been possible to convey such information at an earlier time. Adoption of the [concept forum](#) approach means elected members needing additional information or explanations from staff on forthcoming agenda items will have to make alternative arrangements to meet their requirements.

The adoption of such rules on pre-meeting forums should be conveyed to the public. Advice of the conducting of such a forum and its general content at the ensuing ordinary meeting will reinforce the openness and accountability of council.

## 6. Forums that Incorporate Both Concept and Agenda Items

Many local governments will run only one forum and it will cover both agenda items to be addressed at the next council meeting and wide-ranging concept issues. It is suggested that the different requirements of the two types are recognised and they be categorised as such in the forum agenda. The most important aspect is that the presiding person apply appropriate procedures regarding debate and discussion between elected members when agenda items are being covered.

Such forums should also be open to the public.

## 7. Model Procedures for Forums

Before introducing, or continuing with forums, councils have a responsibility to weigh carefully the risks as well as the benefits associated with such a process and consider if there are better, alternative ways of achieving the desired outcomes.

Councils that hold forums should adopt meeting rules and processes to ensure that proper standards of probity and public accountability are adhered to. Particular emphasis must be placed on ensuring that there is no decision-making during these forums and that this is rigidly enforced.

### Procedures Applying to Both Concept and Agenda Forums

The Department recommends that councils adopt a set of procedures for both types of forums which include the following –

- Dates and times for forums should be set well in advance where practical;
- The CEO will ensure timely written notice and the agenda for each forum is provided to all members;
- Forum papers should be distributed to members at least three days prior to the meeting;
- The mayor/president or other designated elected member is to be the presiding member at all forums;
- Elected members, employees, consultants and other participants shall disclose their financial and conflicts of interest in matters to be discussed;
- Interests are to be disclosed in accordance with the provisions of the Act as they apply to ordinary council meetings. Persons disclosing a financial interest will not participate in that part of a forum relating to their interest and leave the meeting room;
- There is to be no opportunity for a person with an interest to request that they continue in the forum; and
- A record should be kept of all forums. As no decisions will be made, the record need only be a general record of items covered but should record disclosures of interest with appropriate departures/returns.

### Procedures Specific to Concept Forums

The Department recommends that councils adopt specific procedures for [concept forums](#) which include the following –

- Concept forums may be open to the public when an issue is being discussed that council believes would benefit from public awareness and debate;

- Discussion between members is to be limited to those issues which are in the preliminary development stages. Items already listed on a council meeting agenda are not to be discussed; and
- As discussion items are not completely predictable there is to be some flexibility as to disclosures of interest. A person may disclose an interest at the time discussion commences on an issue not specifically included on the agenda.

### Procedures Specific to Agenda Forums

The Department recommends that councils adopt specific procedures for [agenda forums](#) which include the following –

- Agenda forums should be open to the public unless the forum is being briefed on a matter for which a formal council meeting may be closed;
- Items to be addressed will be limited to matters listed on the forthcoming agenda or completed and scheduled to be listed within the next two meetings (or period deemed appropriate);
- Briefings will only be given by staff or consultants for the purpose of ensuring that elected members and the public are more fully informed; and
- All questions and discussions will be directed through the chair. There will be no debate style discussion as this needs to take place in the ordinary meeting of council when the issue is set for decision.

## 8. General Discussions in Councils Without Forums

Travel and time constraints mean that many councils can convene for a limited time; for many, only one day per month. As a result, some local governments have continued with the traditional ordinary meeting format where the decision-making is combined with wide-ranging discussion on other matters. A major problem with this approach is that the wide-ranging discussions result in meetings continuing for long periods of time.

There are benefits to elected members, the public and the staff if the issues requiring decision are dealt with during one continuous stage early in the meeting.

Elected members can have more effective broad ranging discussion during the same time frame as the traditional council meeting with a revised structure. It is suggested a better format would be for the ordinary meeting to be closed as soon as the required decisions have been made. The general discussions would then be pursued in a [concept format](#) environment. The advantages of this approach are the opportunity for councillors to discuss issues of concern in an informal environment.

## 9. Summary

With most local governments, elected members need opportunities to discuss issues outside of the formal ordinary meeting process. The Department acknowledges this approach because those elected members that have the maximum opportunities for input will obtain the greatest satisfaction emanating from their time in local government.

The opportunity for input can be best gained through forums or committees of the full council.

Councils that wish to hold forums of either the concept or [agenda type](#) are encouraged to adopt rules and processes that are in line with these guidelines.

This will assist with openness and accountability, minimise public criticism and lead to a more effective and efficient local government.

These guidelines are also available on the Department's website at [www.dlgc.wa.gov.au](http://www.dlgc.wa.gov.au)



### About the Guideline series

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance requirement. The content is based on Department officer knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.

For more information about this and other guidelines, contact the Local Government Regulation and Support Branch at:

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