

SUPPLEMENTARY GAZETTE



**THE SOUTH AUSTRALIAN
GOVERNMENT GAZETTE**

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STATE GOVERNMENT INSTRUMENTS

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SECTION 302B

Public Health Emergency: Public Access and Public Consultation (No 2)

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On the basis that a relevant declaration has been made in relation to a public health emergency and being satisfied that variation or suspension of the provisions specified in Schedule 1 to this notice is reasonably necessary as a result of the emergency, I, **Stephan Karl Knoll, Minister for Transport, Infrastructure and Local Government**, in the State of South Australia, in accordance with section 302B of the *Local Government Act 1999* ("the Act") hereby vary or suspend the operation of the specified provisions of the Act as set out in Schedule 1 to this notice.

1. Citation

This notice may be cited as the *Public Access and Public Consultation Notice (No 2) 2020*.

2. Definitions

In this notice—

Act means the *Local Government Act 1999*.

3. Application

This notice applies to all councils constituted under the Act including, for the avoidance of doubt, the Adelaide City Council.

SCHEDULE 1—PROVISIONS OF THE ACT VARIED OR SUSPENDED (SECTION 302B(1) OF ACT)

Provision of Act	Variation or Suspension
<i>Local Government Act 1999</i>	
Section 45	<p>Delete subsections (2) and (3) and substitute:</p> <p>(2) Subject to subsection (3) and without limiting the operation of any other law, the principal office of a council must be open to the public for the transaction of business during hours determined by the council, except if the council is satisfied that it is reasonably necessary as a result of the public health emergency—</p> <p>(a) for the principal office of the council to be closed; or</p> <p>(b) for the transaction of business hours at the principal office of the council to be varied.</p> <p>(3) If a council closes its principal office or varies the transaction of business hours in accordance with subsection (2), the council must, as soon as reasonably practicable, take reasonable steps to—</p> <p>(a) make alternative arrangements to enable the local community to access the services of the council that are ordinarily available at the principal office of the council; and</p> <p>(b) inform its local community (including by publishing the information on a website determined by the chief executive officer) about the changes to the arrangements to access those services.</p> <p>(4) Any obligation under this Act to make a document available for inspection at the principal office of the council, is taken to be satisfied if—</p> <p>(a) the document is published on a website determined by the chief executive officer; or</p> <p>(b) the document is made available for inspection at an alternative place or by an alternative means; or</p> <p>(c) a hardcopy or an electronic copy of the document is provided on request (without charge or payment of a fee).</p> <p>(5) If a council or chief executive officer makes a document available for inspection in accordance with subsection (4), the council or chief executive officer must, as soon as reasonably practicable, take reasonable steps to inform its local community (including by publishing the information on a website determined by the chief executive officer) about the changes to the arrangements for inspection of the document.</p> <p>(6) For the purposes of section 70(1) of this Act, if a council makes a Register of Interests available for inspection through any of the alternative arrangements specified in subsection 45(4), the council must suppress the details of the members' residential addresses from the Register.</p> <p>(7) For the avoidance of doubt, any section in the Act that provides for a document or information to be published or made available on a website continues to operate without variation unless otherwise stated in this notice or any other notice published under section 302B of the Act.</p> <p>(8) If a council is required under this Act to provide a copy of a document (either the whole document or an extract of the document) without charge or without payment of a fee—</p> <p>(a) the council must send a copy of the document on request, in the form requested, without charge or payment of a fee; and</p>

- (b) by doing so is taken to have complied with any obligation in this Act to make the document available at the principal office of the council.
- (9) If a council is required under this Act to provide a copy of a document (either the whole document or an extract of the document) on payment of a fee fixed by the council—
- (a) the council must send a copy of the document on request, in the form requested, subject to payment of the taken to have complied with any obligation in this Act to make the document available at the principal office of the council.
- (10) If a council makes copies of a document available in accordance with subsections (8) or (9), the council must, as soon as reasonably practicable, take reasonable steps to inform its local community (including by publishing the information on a website determined by the chief executive officer) about the changes to the arrangements for provision of copies of the document.
- (11) In this section—
document does not include the assessment record kept under Chapter 10 of this Act or an entry made in the assessment record.

Note—

1. The term *document* includes all documents referred to in the Act (for example, registers, records, policies, draft policies, reports, codes, certified copies of by-laws etc) except for the assessment record or an entry made in the assessment record.
2. For the purposes of subsection (4)(c), the council may determine the form (either hardcopy or electronic) in which the document is provided.
3. If a document has been made available for inspection in accordance with subsection (4)(c) and a copy of the document to which subsection (8) applies is requested in a different form (either electronic or hardcopy), the council is to provide a further copy of the document in the requested form.
4. If a document has been made available for inspection in accordance with subsection (4)(c) and a copy of the document to which subsection (9) applies is requested in a different form (either electronic or hardcopy), the council is to provide a further copy of the document in the requested form on payment of the relevant fee fixed by the council.
5. This section does not apply to section 84 of the Act (as varied by the *Public Health Emergency: Electronic Participation in Council Meetings Notice (No 1) 2020*).

- Section 50 After subsection (5) insert:
(5a) For the purposes of this section, a council may alter its public consultation policy or substitute a new policy without undertaking public consultation, even if the existing public consultation policy requires the council to conduct public consultation.
- Section 50 Suspend subsections (6) and (7).
- Section 72 After subsection (3) insert:
(3a) A regional subsidiary is taken to have made a Register of Interests available for public inspection during ordinary office hours if the subsidiary provides a copy of the Register of Interests on request (without charge or payment of a fee).
- Section 88(1a) Suspend subsection (1a)(a).
- Section 88(4) Delete subsection (4) and substitute:
The notice and agenda must continue to be published on the website under subsection (1a) until the completion of the relevant meeting.
- Section 123(4)(a) Suspend subsection (4)(a)(i).
- Section 123(4)(b) Delete subsection (4)(b) and substitute:
the consideration by the council of any submissions made in response to the invitation under paragraph (a)(ii).
- Section 123(5) Delete subsection (5) and substitute:
The council must ensure that copies of the draft annual business plan are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council (including as provided for in sections 45(4) and 45(9)) and on the website at least 21 days before the end of the period for providing written submissions.
- Section 132 After subsection (3a) insert:
(3b) For the purposes of subsections (3) and (3a)—
(a) the time at which the document is available for inspection at the principal office of the council includes the time at which the document is taken to be available for inspection at the principal office of the council pursuant to section 45(4); and
(b) if the document is taken to be available for inspection at the principal office of the council pursuant to section 45(4)(a), the council is taken to have satisfied its duty under sections 132(3) and 132(3a) in respect of that document.
- Section 151(7)(a) Suspend subsection (7)(a)(i).
- Section 151(7)(b) Delete subsection (7)(b) and substitute:
the consideration by the council of any submissions made in response to the invitation under paragraph (a)(ii).
- Section 151(8) Delete subsection (8) and substitute:
The council must ensure that copies of the report required under subsection (5)(d) are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council (including as provided for in sections 45(4) and 45(9)) at least 21 days before the end of the period for public consultation.
- Section 156(14d)(a) Suspend subsection (14d)(a)(i).

Section 156(14d)(b)	Delete subsection (14d)(b) and substitute: the consideration by the council of any submissions made in response to the invitation under paragraph (a)(ii).
Section 156(14e)	Delete subsection (14e) and substitute: The council must ensure that copies of the report required under subsection (14a)(a) are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council (including as provided for in sections 45(4) and 45(9)) at least 21 days before the end of the period for public consultation.
Section 174	Subsection (1) is suspended.
Schedule 2, clause 10	After sub-clause (2) insert: (3) A copy of a direction given by the council under this clause is taken to be available at the principal office of the council if a copy of the direction is provided on request (without charge or payment of a fee).

This notice operates from the date of publication in the South Australian Government Gazette.

This notice has effect for the period specified in section 302B(2)(d)(ii) of the Act.

Dated: 8 April 2020

HON STEPHAN KNOLL MP
Minister for Transport, Infrastructure and Local Government
Minister for Planning

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