

REF: CM192/09

PROPOSED AMENDMENTS TO PUBLIC ACCESS FORUM POLICY

Report of Manager Governance and Information (BC) 15/10/09

GI-80.06.03.004

PRECIS

A review of the Public Access Forum has been undertaken and three amendments are proposed.

This matter has been considered by the Executive Management Committee which has endorsed the proposed amendments.

RECOMMENDATION

The amended Public Access Forum Policy as attached to this report be adopted.

BACKGROUND

In undertaking a review of the Public Access Forum Policy it became apparent that there were three areas where a Public Access Forum address is not justified or is inappropriate, namely:

1 Tender Process

In granting approval for one of the tenderers to address Council in relation to the tender for the operation of the Bulli Beach Kiosk prior to the tender being determined, it could be seen that that tenderer has received an unfair advantage in that the same opportunity was not provided to the other tenderers.

The tender process is prescribed by Part 7 of the Local Government (General) Regulation 2005 which does not provide for tenderer participation, including representation to Council, in the tender process. It follows that approval for a tenderer to address Council through the Public Access Forum is unjustified.

2 Legal Action involving Council

Where legal action has been commenced by or against Council it then becomes inappropriate for a Plaintiff or Defendant to appeal directly to Council by requesting to address Council by way of the Public Access Forum.

3 Staff Matters

The management of staff is a matter for the General Manager and it is inappropriate for any staff issue to be the subject of a Public Access Forum address.

PROPOSAL

It is proposed that the Public Access Forum Policy be amended to exclude:

- The ability for a tenderer/potential tenderer to lodge Public Access Forum application in respect of a Council tender that has yet to be determined by Council,
- The ability for a Public Access Forum application to be submitted in respect of an issue where Council is in receipt of or has served a:
 - o Statement of Claim
 - o Summons for Information or
 - o Subpoena to attend Court
- The ability for a Public Access Forum application to be submitted in relation to a staff matter.

CONSULTATION AND COMMUNICATION

Executive Management Committee which concurs with the proposed amendments.

PLANNING AND POLICY IMPACT

This report proposes amendments to an existing Council Policy which are deemed necessary to overcome current policy deficiencies.

CONCLUSION

The proposed amendment in respect of the tenderers requesting involvement in the tender process will ensure that Council's tender process will be implemented in accordance with the legal provisions.

In respect of matters where Council is the subject of legal action, it is inappropriate for Council to receive any address/presentation. Such matters must be left to Council's legal representatives to manage. Similarly all staff-related matters are issues for the General Manager to manage.

Name	Position Title
Author:	
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Authorised by:	
Illana Halliday	Director Corporate and Community Services
David Farmer	General Manager

ATTACHMENTS

1. Amended Public Access Forum Policy



PUBLIC ACCESS FORUM

COUNCIL POLICY

BACKGROUND

Public consultation and contribution to the decision making of Council should enhance the quality of Council's decisions and are therefore encouraged and facilitated by this policy.

OBJECTIVE

To provide members of the community with the opportunity to address Administrators on matters falling within the jurisdiction and Charter of Council as outlined in the *Local Government Act 1993*, with the exception of development applications which are undetermined, or have been the subject of official consultation forums.

The Public Access Forum seeks to –

- improve communication between Council and its residents;
- assist Council in its decision making processes;
- provide an opportunity for members of the community to raise relevant issues with Council in a formal meeting environment; and
- assist in portraying Council as an open and accessible organisation.

POLICY STATEMENT

Requests to address Council and the conduct of public addresses are to be submitted to Council in accordance with the terms contained in the accompanying Statement of Procedures.

STATEMENT OF PROCEDURES

Applications to address Council -

- must be made in writing on the application form attached to this policy and forwarded to the Administrative Coordinator, Administration + Governance Unit, no later than 12 noon on the working day prior to the day of the meeting;
- wherever possible, a person or group who supports an opposite view to the applicant must be notified and given the opportunity to speak;
- applications shall state the name and address of the applicant, contact telephone number and the issue to be raised;
- any documentation to be provided to Administrators shall either accompany the application or be available for distribution to Administrators prior to the meeting – no written material is able to be circulated during the presentation;
- an application must relate to a matter that falls within the jurisdiction and Charter of Council as outlined in the *Local Government Act, 1993* or a report which is currently before Council for determination.

However, this policy excludes the following:

- all issues relating to development applications which are in the process of being assessed and are undetermined, have been considered at an Independent Hearing and Assessment Panel meeting, are listed on the Council meeting agenda for determination, or matters which have been the subject of official public consultative forums such as Formal and Informal Facilitation meetings, public meetings and public hearings. 'Official' forums will have provided an invitation to both the objectors and supporters of a matter to come together at a formal meeting in an attempt to resolve contentious issues. Further information in relation to forums for development applications can be accessed through the *Development Assessment and Compliance Notification Policy* and the *Independent Hearing and Assessment Panel Policy*;
- **all representations in respect of tenders that are awaiting determination by Council.**
- **all matters where legal action has been commenced involving Council and where Council is in receipt of or has served:**
 - a Statement of Claim
 - a Summons for Information or
 - a Subpoena to attend Court
- **all staff related matters.**
- addresses will be received at meetings of Council;
- applications in respect of current meeting Agenda items will be given priority;
- applicants who have previously addressed Council on a particular issue, cannot address another meeting on the same matter;
- the General Manager will determine the applications in the event of there being more than the maximum number of applicants;
- if there are more than the maximum number of applications, Administrators will be informed of those applications not included for presentation;

- a list of applicants speaking under the Public Access Forum, together with information on the subject of the briefing, is to be made available to Administrators at the meeting.

Public Address

- the public forum shall be limited to a period of thirty (30) minutes, unless extended by Council;
- each address shall be limited to five (5) minutes, ie maximum of six (6) addresses per meeting. The Chairperson will notify speakers when there is 30 seconds remaining;
- there shall be a maximum of two (2) speakers in favour and two (2) speakers against a particular issue and groups are required to nominate a representative to speak on their behalf;
- speakers must only speak in relation to the subject stated on their application;
- speakers shall not debate the issue with Administrators and staff;
- Administrators are able to ask questions of the speaker on a point of clarification;
- all speakers are advised that they do not enjoy any protection from defamation arising from comments made during the presentation and should therefore refrain from voicing defamatory remarks or personal defamatory statements against any individual;
- the Chairperson can order a person to cease speaking if he/she considers that the speaker is making inappropriate or offensive comments, is abusive, is making comments that are considered not in the public interest or is not complying with the rules of meeting procedure as outlined in Council's Code of Meeting Practice.

Minutes

- minutes must include a brief synopsis of the presentation/s;
- wherever possible, speakers should provide the Minute Clerk with a written summary of their presentation, prior to commencement of the meeting. Following the Council meeting, the written summary will be referred to the appropriate Division for notation.

Response

- if the address relates to an Agenda item the issue raised by the speaker shall be dealt with when the particular Agenda item is considered by Council;
- no formal response will be provided to the applicant.

WOLLONGONG CITY COUNCIL

PUBLIC ACCESS FORUM

APPLICATION FORM

Please complete this request and forward to the Administrative Coordinator, Administration Unit

Note - This application must be received by Council no later than 12 noon on the working day prior to the Council meeting

Fax: 4225 9964
Postal Address:

Email: lwatkins@wollongong.nsw.gov.au;
Locked Bag 8821, Wollongong NSW 2500

Tel: 4227 7111

Name of Applicant: Tel:

Address: Fax:

Organisation: (if applicable) Email:

CHOOSE FROM 1 OR 2 BELOW -

1 Address of a general nature (not a Business Paper Agenda Item): (Please specify)

OR

2 Business Paper Item to be addressed -

Council Meeting Date: Agenda Item No:

Subject:

I am [] For the recommendation in the report

I am [] Against the recommendation in the report

Name of Speaker:

I understand and agree to abide by the conditions of the Public Access Forum Policy of Wollongong City Council, a copy of which has been given to me.

Date: Signature of Applicant:

Name (Please Print)

Office Use Only

Has the application been the subject of an official public consultative forum?

Recommendation to General Manager -

MATTER TO BE REFERRED TO GENERAL MANAGER FOR DETERMINATION

Determination by General Manager Yes No _____

Date: _____ Signature: _____

Return to Administrative Coordinator, Administration Unit, following determination by General Manager

Applicant advised by Fax Phone Email

Time: _____ Date: _____

Signature _____

Refer to Public Officer in case of any dispute/anomaly. Public Officer to hear dispute/liaise with applicant and list comments below:

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SUMMARY SHEET

RESPONSIBLE DIVISION	Governance and Information
DATE ADOPTED ON BEHALF OF COUNCIL	28 October 2008
DATE OF PREVIOUS ADOPTION(S)	28 October 2008
DATE FOR REVIEW	July 2012