

Councillor Davis - QoN - Special Council Meeting 14 April 2025

Tuesday, 13 May 2025
Council

Council Member
Councillor Henry Davis

Public

Contact Officer:
Michael Sedgman, Chief Executive Officer

QUESTION ON NOTICE

Councillor Henry Davis will ask the following Question on Notice:

'Noting the Special Meeting of Council held on 14 April 2025, could the Administration;

1. Clarify the basis on which advice was provided to Cr Martin that he could remain in the chamber after declaring a material conflict of interest, given that Section 75C(1)(b) of the *Local Government Act* states that a member must leave the room in such cases?
2. Was the Lord Mayor aware of the advice prior to attendance at the meeting?
3. Was there any written Ministerial approval under Section 75C(3) that allowed Cr Martin to stay and participate in the meeting? If not, what provision was relied on to support that advice?
4. In this instance, was any legal advice sought in advance regarding how to manage potential quorum issues when a member has a material conflict of interest?
5. Is it the Chief Executive Officer's understanding that concerns about maintaining quorum can affect the obligation to leave the meeting room under Section 75C, or is that obligation absolute unless Ministerial approval is obtained?
6. What would have been the consequences for the council had the council accepted the advice that there was an exemption which would allow Cr Martin to ignore the material conflict of interest?
7. Given that the Act appears to be quite clear on this matter, what this a misstep, and are there plans to clarify or correct the process going forward?'

REPLY

1. The Minutes of the Special Council Meeting of 14 April 2025 are provided [here](#).
2. In response to part 1 of the Question on Notice:
 - 2.1 The motion initially before the meeting, prior to variation, was that a councillor be appointed to the position of Deputy Lord Mayor. The advice initially provided to the meeting was premised on there being a general conflict of interest in the making of such an appointment. Under Section 75B(2) of the *Local Government Act 1999* (SA), a person who declares a general conflict of interest and who determines that they will leave the meeting as a result, is nevertheless permitted to remain if their leaving of the meeting would cause the meeting to be inquorate.
 - 2.2 Noting that an additional allowance is payable for the position of Deputy Lord Mayor, clarification obtained from Council Administration confirmed that a decision to appoint a particular person to the office of Deputy Lord Mayor would also give rise to a material conflict of interest. No exemption equivalent to that found in Section 75B(2) applies to material conflicts of interest.

2.3 While nominations for the position of Deputy Lord Mayor were sought during debate on the motion that a councillor be appointed, at no time was there a motion before the meeting to appoint a particular councillor to the position of Deputy Lord Mayor. The obligation to declare a material conflict of interest only arises at the point in time when a motion to appoint a particular councillor is discussed.

- 3 In response to part 2 of the Question on Notice, the Lord Mayor was not aware of the advice prior to her attendance at the meeting.
- 4 In response to part 3 of the Question on Notice, no Ministerial approval was required or sought in relation to Council Member attendance in the Chamber in regard to the item of business to appoint a Deputy Lord Mayor.
- 5 In response to part 4 of the Question on Notice, legal advice was not required or sought in regard to managing potential quorum issues when a Council Member has a material conflict of interest.
- 6 In response to part 5 of the Question on Notice, refer to parts 2.1, 2.2 and 2.3 in this reply.
- 7 In response to part 6 of the Question on Notice, at no time was there a motion before the meeting to appoint a particular councillor to the position of Deputy Lord Mayor.
- 8 In response to part 7 of the Question on Notice, the method of appointment for the Deputy Lord Mayor is set out in the Council's Code of Practice for Council Meeting Procedures.

Staff time in receiving and preparing this reply	To prepare this reply in response to the question on notice took approximately 5.5 hours.
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