

# Informal Gatherings Policy



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Record number	D20/31356
Responsible Manager	Manager Governance & Policy
Other key internal stakeholders	Director Organisational Services & Excellence Director Assets & Environment Director Community & Cultural Development
Last reviewed	14 April 2020
Adoption reference	Council
Resolution number	397
Previous review dates	21/8/19, 22/11/16, 08/03/16
Legal requirement	It is a requirement under Section 90(8a) of the Local Government Act 1999 to have this policy. Regulation 8AB of the Local Government (General) Regulations 2013 requires particular Informal Gatherings to be held in public  <i>Electronic Participation in Council Meetings Notice (No 1) 2020</i>
Due date next review	2023

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## PURPOSE

Open and transparent Council and Committee meetings underpin representative democracy and ensure public confidence in Council's decision-making processes. Informal Gatherings, where appropriate, provide a valuable opportunity to enhance decision making processes by providing opportunities for Elected Members to become better informed on issues and seek further clarification.

The purpose of this Policy is to:

- Ensure that the statutory requirements for Informal Gatherings are observed
- Provide an opportunity for confidential discussions among Elected Members where this is warranted by the nature of the gathering or subject matter to be discussed
- Avoid any perception that Informal Gatherings will be used to build consensus for Council or Committee agenda items or that council is carrying, or effectively carrying out, out decision-making functions at Informal Gatherings, where these decisions are properly the province of formal Council or Committee meetings.

This policy applies to Informal Gatherings of Council (including Designated Informal Gatherings or Discussions).

## POLICY

Council is aware of the need to balance openness and transparency with opportunities for informal communication and discussions between Elected Members, as well as Elected Members and Council employees. This Policy provides for Elected Members to have sufficient opportunity to conduct planning sessions, participate in workshops, receive informal briefings and educational sessions, and convene other informal gatherings without prejudicing the requirements for openness and transparency as required by the Act and Regulations.

### Alterations to Policy: Public Health Emergency (Notice No 1)

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 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the *Local Government Act 1999* (**Notice No 1**) varying or suspending the operation of the specified provisions of the Local Government Act 1999 as set out in Schedule 1 to Notice No 1. Which commenced operation on 31 March 2020.

For the period Notice No 1 has effect (as provided for in Notice No 1), this Informal Gatherings Policy is altered as set out below and those alterations have effect notwithstanding any other provision in this Informal Gatherings Policy to the contrary.

The alterations to this Policy are made consistent with Notice No 1 and the Council's Code of Practice for Access to Council and Committee Meetings and Documents, and Code of Practice for Meeting Procedures.

For the avoidance of doubt, save for the alterations to the Informal Gatherings Policy as set out below, this Informal Gatherings Policy otherwise applies to all informal gatherings of the Council.

## Informal Gatherings vs Designated Informal Gatherings or Discussions

Informal Gatherings are used for the purpose of information sharing, generating ideas, education and/or discussing issues that involve strategy or policy or other matters of council administration. They may also be used to train or brief Elected Members on issues relevant to discharging their roles, responsibilities and functions as an Elected Member or to encourage informal communication between Elected Members, and Elected Members and employees.

Section 90(8) of the Act allows Informal Gatherings or discussions to be held provided that the gathering or discussion does not obtain, or effectively obtain, a decision on a matter outside a formally constituted meeting of the Council or Committee. Informal Gatherings are not used for the purpose of lessening or preventing debate on matters that may be subsequently dealt with at Council or Committee meetings. Informal Gatherings will also not be used to build consensus positions or otherwise discharging council's deliberative and decision-making functions.

Designated Informal Gatherings or Discussions are a particular type of Informal Gathering that involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of Council or Committee.

Designated Informal Gatherings and Discussions will be used solely for the purpose of information sharing and not for the purpose of determining, or effectively determining, matters which should be determined at a formally constituted meeting of the Council or Committee.

An Informal Gathering which does not involve discussion of a matter that is, or is intended to be part of the agenda for a formal meeting of the Council or Committee, is not a Designated Informal Gathering or Discussion.

## Public Notification / Access and Confidentiality

### Designated Informal Gatherings or Discussions

Designated Informal Gatherings or Discussions will be held at a place open to the public, except where the Designated Informal Gathering or Discussion has been declared by the Council or CEO to be a 'confidential informal discussion'.

During the period within which Notice No. 1 applies, public access to Designated Informal Gatherings or Discussions may be provided in accordance with Sections 90(1a) and 90(1b) of the *Local Government Act 1999* however, as outlined in this Policy, minutes will not be recorded.

The Council or CEO may, on a case-by-case, declare a Designated Informal Gathering or discussion to be a 'confidential informal discussion' where the Designated Informal Gathering or Discussion is either a:

- Planning session of a general or strategic nature; or
- Briefing session relating to information or a matter of a confidential nature within the ambit of section 90(3) of the Act.

If a Designated Informal Gathering or Discussion has been declared to be a 'confidential informal discussion', then the designated informal gathering or discussion may be attended by Elected Members, the CEO, relevant staff and any other person invited to attend by the Council or the CEO.

If a 'confidential informal discussion' declaration has been made in respect of only some of the matters to be discussed at a Designated Informal Gathering or Discussion, then these confidential matters will be scheduled to be discussed at the end of the agenda (where possible) for the Informal Gathering. The Designated Informal Gathering or Discussion will be open to the public until immediately prior to the discussion on confidential matters commencing, or until it becomes an Informal Gathering that is not open for attendance by the public (refer to Other Informal Gatherings section).

## Other Informal Gatherings

Informal Gatherings which are not a Designated Informal Gathering or Discussion are not open for attendance by the public, unless otherwise determined by Council or the CEO. Public notification of and access to these Informal Gatherings will only occur where Council or the CEO have determined that the public have a right to attend.

The discussion and documents from Informal Gatherings which are not a Designated Informal Gathering or Discussion will remain confidential in nature unless the Council or CEO has determined otherwise, or the information has been released as part of a relevant Council or Committee report. Taking this into account, the confidentiality provision under section 90 of the Act have no application in relation to these type of Informal Gatherings, however documents will be subject to the *Freedom of Information Act 1991*.

## Informal Gathering Attendance

Informal Gatherings (either with or without Council employees) are, by their nature, non-compulsory for Elected Members. All Elected Members are encouraged to attend these sessions, particularly those designed to provide history, context or additional information to assist Elected Members in carrying out their functions. An attendance record for Informal Gatherings may be kept for Elected Members and staff, depending on the nature of the Informal Gathering

**Notice No 1:** For the purpose of Notice No 1, members of the Council may participate in an informal gathering of the Council by electronic means.

A member of the Council participating in an informal gathering by electronic means is taken to be present at the informal gathering provided that the member:

- (a) can hear all other members present at the informal gathering; and
- (b) can be heard by all other members present at the informal gathering.

## Form of Participation by Electronic Means

Where:

- (a) a Council member is to participate in an informal gathering by electronic means; and
- (b) the electronic means has the functionality to allow the Council member to participate in the informal gathering by being heard but not seen or by being both seen and heard; and
- (c) the electronic means of the Council has the functionality to allow the council member to be heard but not seen or to be both seen and heard, the member must participate by being both seen and heard.

## Agendas, Procedures at Meetings and Minute Taking

As Informal Gatherings (including Designated Informal Gathering or Discussion) are not a duly constituted meeting of Council or a Committee and no decisions are made, they do not involve the same formal notice of meeting, agenda, report or minute taking process in accordance with the Act.

### Agendas

For all Designated Informal Gatherings or Discussions, notification of these planned sessions will be published on Council's website:

- The place, date and time at which the Designated Informal Gathering or Discussion will be held
- The matter that is planned to be discussed at the Designated Informal Gathering or Discussion
- Whether or not the Designated Informal Gathering or Discussion is open to the public or whether a 'confidential informal discussion' declaration applies. Where a 'confidential informal discussion' declaration applies, the reason for the Designated Informal Gathering or Discussion being held entirely or partially in confidence.

Where possible, notification of planned Designated Informal Gatherings or Discussions will be provided within the same timeframes as a notice of Council or Committee meeting under the Act.

Agendas for Informal Gatherings which are not a Designated Informal Gathering or Discussion will remain confidential in nature unless the Council or CEO has determined otherwise, or the information has been released as part of a relevant Council or a Council Committee report.

### Procedures at Meetings

Designated Informal Gatherings or Discussions will be chaired informally by the CEO or person nominated by the CEO. Informal Gatherings and Designated Informal Gatherings or Discussions are not subject to the procedural meeting requirements of the Act and *Local Government (Proceedings at Meetings) Regulations 2013*. Both the CEO and the Elected Members are responsible for ensuring that the purpose, intent and outcomes of the Designated Informal Gatherings or discussions are conducted in accordance with the Act and relevant regulations.

Information / documentation may be provided to Elected Members to accompany the discussion. Such documents are considered internal working documents of Council and are not for public distribution unless the Council or CEO has determined otherwise, or the information has been released as part of a relevant Council or a Committee report.

## Minutes

Formal minutes will not be recorded for either a Designated Informal Gathering or Discussion or other types of Informal Gatherings.

## LEGISLATIVE FRAMEWORK

There is a legislative requirement for Council to have a policy relating to this area. The following legislation applies to this Policy:

### Local Government Act 1999

Section 90(8) of this Act provides for informal gatherings or discussions with Elected Members and employees. Section 90(8a) requires Council to have a policy in relation to informal gatherings or discussion that must provide for:

- Imposition of limitations on the holding of informal gatherings or discussions
- Procedures for approval of informal gatherings or discussions
- The capacity of the council to impose conditions on an approval.

### Local Government (General) Regulations 2013

Section 8AB of the Regulations requires Designated Informal Gatherings or Discussions to be held in a place open to the public (unless declared to be held in confidence in accordance with the Act and Regulations).

## Other references

Council's documents including:

- Code of Practice – Access to Council and Committee Meetings and Documents
- Code of Practice for Council and Committee Meeting Procedures
- Code of Conduct for Council Members
- Elected Member Training and Development Policy
- Fees and Charges Register

External document including:

- State Records Act 1997
- Freedom of Information Act 1991

This Policy is partly based on a model policy developed by the Local Government Association.

# STRATEGIC PLAN/POLICY

## Strategic Plan

Theme	Objective	Comments
PROSPEROUS AND CONNECTED	<i>A community that participates in meaningful community and economic activities.</i>	Our local economy prospers and people feel a sense of purpose and belonging. The ability for the public to attend Designated Informal Gatherings or Discussions, enables members of the public to be included in matters that may be, or are intended to be, part of the agenda of a formal meeting of Council or Committee.

## Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of organisational excellence. The themes most relevant to this report are: Customers and community relations and Governance given the intent of this policy is to balance openness and transparency with opportunities for informal communication and discussions in a way that complies with the Act and Regulations.

## DEFINITIONS

For the purposes of this Policy the following definitions apply:

### Act

Local Government Act 1999

### CEO

Refers to the Chief Executive Officer (including their delegate) of the City of Tea Tree Gully.

### Designated Informal Gathering or Discussion

An event organised or conducted by or on behalf of Council or CEO to which members of the Council or Committee have been invited and that involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the Council or Committee.

### Elected Members

Includes the Councillors and the Mayor.

### Electronic Means

Includes a telephone, computer or other electronic device used for communication.

### Informal Gathering

Gatherings of some or all Elected Members to discuss council business that are arranged by the Council (either by CEO or by the elected council) other than proceedings which are subject to formal notification and minutes (eg. Council and Committee meetings). This includes, but is not limited to:

- Planning sessions associated with the development of policies or strategies
- Briefing sessions / CEO and other workshops
- Training and Development sessions
- Social gatherings, arranged by the Council, to encourage informal communication between Elected Members or between Elected Members and employees
- Other informal gatherings and discussions arranged by the Council, either by the CEO or by the Council.

### Regulation

Local Government (General) Regulations 2013

## POLICY IMPLEMENTATION

This Policy will be implemented by the Chief Executive Officer or relevant portfolio director and managed in accordance with Council's scheme of delegations.

## ACCESSIBILITY

This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: [www.cttg.sa.gov.au](http://www.cttg.sa.gov.au)

Hard copies, for a fee, can be provided in accordance with Council's Fees and Charges Register at Council's Civic Centre at 571 Montague Road, Modbury SA 5092.