

## 1. INTRODUCTION

The Local Government Act 1999 expressly recognises that the Council may hold '*informal gatherings*' of Elected Members in circumstances where there may be no legal duty to gather in a place open to the public (as compared to meetings of the Council or Council committees where there is a clear and unequivocal legal duty to meet in a place open to the public).

The introduction of the *Local Government (General) Variation Regulations 2016* now provides guidance to Council on how informal gatherings are to be structured.

The purpose of the Council informal gatherings includes but is not limited to allowing the Mayor, Elected Members and senior management staff to:

- Exchange draft information on proposals that are being worked on by staff or ideas that need to be investigated.
- Receive training including any mandatory training.
- Provide a forum for discussion on proposed staff initiatives and discuss options for engaging the community in determining Council's strategic corporate direction.
- Assist Councilors/executive staff in team building.
- Help develop trust and understanding between those who attend the workshops.
- Receive briefings including, community organisations, businesses, Council programs, LGA and State Government Departments.

## 2. PUBLIC HEALTH EMERGENCY: Electronic<sup>1</sup> Participation in Council Meetings

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 Coordinator 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. Notice No 1 commenced operation on 31 March 2020.

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<sup>1</sup> *Electronic means* includes a telephone, computer or other electronic device used for communication.

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 Informal Gatherings Policy are made consistent with Notice No 1 and the Council's Code of Practice for Access to Meetings 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 meetings of the Council.

### 3. PURPOSE OF THIS POLICY

This Policy provides clear direction to Elected Members and staff in relation to holding informal gatherings and to assure the public that actual or effective decisions are not made at an informal gathering.

Regulation 8AB (2) of the *Local Government (General) Variation Regulations 2016* defines a designated informal gathering as follows:

*'an event organised and conducted by or on behalf of the Council or Chief Executive Officer to which members of the Council or Council Committee (as the case may be) 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 Council Committee.'*

An informal gathering which does not involve discussion of a matter that is, or is intended to be, part of the agenda of a formal meeting of Council or Council Committee, is not a 'designated informal gathering or discussion' and is not subject to this Policy, unless otherwise determined by the Council or the Chief Executive Officer.

The Council or Chief Executive Officer may, on a case-by-case basis, declare a designated informal gathering or discussion to be a 'confidential informal discussion' where the designated informal gathering or discussion is either:

- a) A planning session of a general or strategic nature; or
- b) Is a briefing session relating to information or a matter of a confidential nature within the ambit of section 90 (3) of the *Local Government Act 1999*.

### 4. POLICY DETAILS

#### Decisions

At informal gatherings, for example, workshops, training or briefing sessions, elected members CANNOT make an actual or purported decision or issue a direction to staff.

The Council recognises that formal decision-making may, legally, only occur at formal meetings of the Council or otherwise pursuant to the Council's scheme of delegation.

## Format

Designated informal gatherings or discussions may be used to:

- a) Discuss issues that involve strategy or policy or other matters of Council administration; and
- b) Brief Council members or Council Committee Members on issues relating to their functions.

Designated informal gatherings or discussions are not subject to the procedural meeting requirements of the *Local Government Act 1999* and the *Local Government (Procedures at Meetings) Regulations 2013*.

There will be no standing orders or formal meeting procedures. The informal gathering will generally be chaired by the Chief Executive Officer or another senior Council officer. The Chair is responsible for ensuring that the purpose, intent and outcomes of the designated informal gatherings or discussions are consistent with section 90 of the *Local Government Act 1999*.

Those attending the informal gathering should be respectful and show courtesy for the person that is talking and elected members are reminded that the Mandatory Code of Conduct for Elected Members applies, even in this informal setting.

**Notice No 1** provides that during Covid-19 restrictions, where the meeting of a Council cannot occur in the Chambers, a member 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

- (a) a Council member is to participate in a Council 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.

### Venue

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 Chief Executive Officer to be a 'confidential informal discussion'.

The venue for informal gatherings will be determined by the CHIEF EXECUTIVE OFFICER but generally is the Port Broughton Council meeting room.

**During the period within which Notice No. 1 applies** during Covid-19 restrictions, where the meeting of a Council cannot occur in the Chambers, a member of the Council participating by electronic means, that public access to designated informal gatherings may be provided in accordance with Sections 90(1a) and 90(1b) of the *Local Government Act 1999* however minutes will not be recorded.

### Notice of Meeting

The date and time of designated informal gatherings or discussions will be published on Council's website, including:

- a) the place, date and time at which the designated informal gathering or discussion will be held;
- b) the matter that is to be discussed at the designated informal gathering or discussion; and
- c) whether or not the designated informal gathering or discussion is to be held at a place open to the public.

Where a confidential informal discussion declaration applies to a designated informal gathering or discussion, the reason for the designated informal gathering or discussion being held entirely or partially in confidence must be published on the Council website.

### Program

Formal minutes or notes will not be recorded of a designated informal gathering or discussion.

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 Council Members, the Chief Executive Officer and any other person invited to attend by the Council or Chief Executive Officer.

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 for the designated informal gathering or discussion. The designated informal gathering or discussion will be open to the public immediately prior to the discussion on confidential matters



commencing.

## Information

Elected Members are supplied information at the informal gatherings and must be handled in a responsible manner.

Section 2.7 of the Code of Conduct for Council Members states, that members must “Deal with information received in their capacity as Council members in a responsible manner” and “2.8. Endeavour to provide accurate information to the Council and to the public at all times”. Information that is in draft form and that has not been debated or decided on by Council is not accurate or suitable for public distribution.

If there is part or all of a document that an Elected Member would like to use publically, they can obtain a public version from the Chief Executive Officer, who will supply the information if it is available and suitable to do so.

Any information that an Elected Member needs to make a decision at a Council meeting will be supplied in the Agenda for the Council meeting.

## 6. LEGISLATION and OTHER DOCUMENTS

Section 90(8a) & (8b) of the Local Government Act, 1999  
Regulation 8AB, Local Government (General) Variation Regulations 2016

## 7. AVAILABILITY & GRIEVANCES

This policy is available for inspection at the Council office at 11 Bay Street, Port Broughton during ordinary business hours. It is also available for inspection, download or printing, free of charge, from Council’s website [www.barungawest.sa.gov.au](http://www.barungawest.sa.gov.au)

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer, District Council of Barunga West, PO Box 3, Port Broughton SA 5522.

## 8. REVIEW

This Barunga West Policy shall be reviewed by The District Council of Barunga West Council within (4) years of the issued date.

Date	Revision Number	Reason for Amendment
03 March 2016	1	Adopted by Council. Agenda Item Reference 14.1.2.
December 2016	2	The Local Government (General) Variation Regulations 2016 has implemented specific regulations around the holding of informal gatherings. Adopted by Council
August 2020	3	Reviewed – Covid19. Inclusion of meeting and livestreaming.
October 2020	4	Reviewed per Norman Waterhouse advice regarding recording

