

POLICY

Policy Name	Informal Gatherings Policy
Policy Category	Statutory
Department / Officer	Office of Chief Executive Officer/Governance
Date Adopted	29 March 2016
Date/s Reviewed	28 November 2016, 25 November 2019; 7 April 2020
Review Frequency	Within 12 months of a Council election
Strategic Plan Reference	Objective 5 – An innovative Council empowering the community Approach 5.1 Cultivate and demonstrate community leadership Strategy 5.1.1 Decision making is transparent and complies with legislative and policy requirements.
Attachments	Nil

1. Purpose

The purpose of this policy is to ensure Council Members have sufficient opportunity through informal gatherings and discussions to conduct planning sessions, to receive briefings and educational sessions and workshops without prejudicing the requirements for openness and transparency as required by the *Local Government Act 1999* (the Act).

2. Public Health Emergency: Electronic Partipation in Council Meetings (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. Notice No 1 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 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 Gathering Policy otherwise applies to all informal gatherings of the Council.

2.1 Definitions

Electronic means includes a telephone, computer or other electronic device used for communication.

2.2 Attendance at Informal Gatherings

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.

2.3 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.

2.4 Public Access to Designated Informal Gatherings

During the period within which Notice No. 1 applies, 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, as outlined in this Policy, minutes will not be recorded.

3. Scope

This policy applies to informal gatherings of the Council or a Council Committee, including designated informal gatherings or discussions.

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 Council Committee, is not a 'designated' informal gathering or discussion and is therefore defined separately in this Policy.

4. Policy Statement (Summary)

The City of Victor Harbor supports the use of informal gatherings or discussions as a tool to gain a better understanding of Council matters but recognises that formal decision-making may, legally, only occur at formal meetings of the Council or pursuant to the Council's scheme of delegation.

5. Legislation and Compliance

Public Health Emergency: Electronic Participation in Council Meetings (No 1)

Pursuant to Section 90 of the *Local Government Act 1999*:

(8) *The duty to hold a meeting of a council or council committee at a place open to the public does not in itself make unlawful informal gatherings or discussion involving:*

- (a) *Members of the council or council committee or*
- (b) *Members of the council or council committee and staff,*

provided that a matter which would ordinarily form part of the agenda for a formal meeting of a council or council committee is not dealt with in such a way as to obtain or effectively obtain, a decision on the matter outside a formally constituted meeting of the council or council committee.

Examples-

The following examples of informal gatherings or discussions that might be held under subsection (8)

- *planning sessions associated with the development of policies or strategies;*
- *briefing or training sessions;*
- *workshops;*
- *social gatherings to encourage informal communication between members or between members and staff.*

(8a) In addition, an informal gathering or discussion under Section 90(8) of the Act may only be held if:

- (a) the Council has adopted a policy on the holding of informal gatherings or discussions; and

(b) the informal gathering or discussion complies with the Policy

(8b) A Policy must comply with any requirements prescribed by the Regulations.

6. Definitions

Act means the *Local Government Act 1999*

CEO means the Chief Executive Officer of the City of Victor Harbor

Council Members means a person appointed or elected as a councillor of the City of Victor Harbor

Designated Informal Gathering or Discussions means 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.

Other Informal Gathering means 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 Council Committee, is not a designated informal gathering or discussion.

Regulations means the *Local Government (General) Regulations 2013*

7. Policy Content

6.1 Purpose of informal gatherings or discussions

6.1.1 Section 90(8) of the Act allows informal gatherings or discussions to be held provided that a matter which would ordinarily form part of the agenda for a formal meeting of the Council or Council Committee is used to obtain or effectively obtain, a decision on a matter outside a formally constituted meeting of the Council or Council Committee.

6.1.2 The Act sets out the following examples of informal gatherings or discussions:

6.1.2.1 Planning sessions associated with the development of policies or strategies

6.1.2.2 Briefing or training sessions

6.1.2.3 Workshops

6.1.2.4 Social gatherings to encourage informal communication between members or between members and staff

6.1.3 Informal gatherings involving Council Members, or Council Committee members and staff are, by their nature, a non-compulsory meeting. However, all Council Members and Council Committee Members are encouraged to attend relevant gatherings, particularly where the informal gathering or

discussion is intended to provide history, context, training or additional information to Council Members or Council Committee Members.

6.2 Purpose of ‘designated’ informal gatherings or discussions

6.2.1 ‘Designated’ informal gatherings or discussions involve discussion of a matter that is intended to form part of the agenda for a formal Council or Committee meeting and may be used to:

6.2.1.1 discuss issues that involve strategy or policy or other matters of Council administration.

6.2.1.2 brief Council Members or Council Committee members on issues relating to their functions.

6.2.2 ‘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 Council Committee.

6.3 Designated informal gathering or discussions to be open to the public, except in special circumstances

6.3.1 ‘Designated’ informal gatherings or discussions will be held at a place open to the public, except where the gathering or discussion has been declared by the Council or CEO to be a ‘confidential informal discussion’.

6.3.2 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:

6.3.2.1 a planning session of a general or strategic nature; or

6.3.2.2 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*.

6.4 Procedures applying to ‘designated’ informal gatherings or discussions

6.4.1 Both the CEO and the Council are responsible for ensuring designated informal gatherings and discussions are conducted in accordance with the Act.

6.4.2 Designated informal gatherings or discussions are not subject to the procedural meeting requirements of the Act and Regulations.

6.4.3 Designated informal gatherings or discussions will be chaired by the CEO or delegate. 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 Act.

6.4.4 Designated informal gatherings will not involve a formal minute taking process. Notes of a designated informal gathering or discussion, open to the public,

may be tabled at the Council meeting following the designated informal gathering or discussion. The CEO, at their discretion, may determine from time to time to prepare a list of items for discussion and subsequently a 'record of subject matter' discussed at an informal gathering.

- 6.4.5 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 CEO and any other person invited to attend by the Council or the CEO.
- 6.4.6 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 until immediately prior to the discussion on confidential matters commencing.
- 6.4.7 Those attending a designated informal gathering should be respectful and show courtesy for the person that is talking.
- 6.4.8 Recording (including filming, photography and audio) from the public gallery, of informal gatherings and discussions, which are open to the public, is allowed, provided that the activity does not disturb the meeting.
- 6.4.9 Council administration will record an informal gathering or discussion where possible.
- 6.4.10 Council's Code of Practice for Meeting Procedures will apply to informal gatherings for the purpose of recording meetings and for an interruption to a meeting.
- 6.4.11 Persons in the public gallery filming or recording an informal gathering are requested to exclude the public gallery. If public participation is provided at a workshop etc then persons attending/participating may request their image or voice not be published.

6.5 Publication of information relating to designated informal gatherings or discussions

- 6.5.1 For designated informal gatherings or discussions the following information will be published on Council's website:
 - 6.5.1.1 The place, date and time at which the designated informal gathering or discussion will be held;
 - 6.5.1.2 the matter that is to be discussed at the designated informal gathering or discussion;
 - 6.5.1.3 whether or not the designated informal gathering or discussion is to be held at a place open to the public.

- 6.5.2 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's website.

6.6 Draft papers/working documents for informal gatherings or discussions

- 6.6.1 Where draft papers or working documents are made available to Council or Committee members as part of an informal gathering or discussion they should be considered as privileged and/or confidential papers and not suitable for public distribution. Refer Section 3.3 of the Code of Conduct for Council Members –

Not release or divulge information that the Council has ordered be kept confidential, or that the Council Member should reasonably know is information that is confidential, including information that is considered by Council in confidence.

- 6.6.2 If there is part or all of a document that a Council or Committee Member would like to use publicly they should consult with the CEO for advice.

6.7 'Other' informal gatherings and discussions

- 6.7.1 'Other' informal gatherings or discussions are matters that fall outside of those prescribed in the Regulations as 'designated' informal gatherings.

- 6.7.2 Such gatherings may be used for the purpose of:

6.7.2.1 Training or educational sessions

6.7.2.2 Exchange information on proposals that are being worked on by staff or ideas that need to be investigate including options for engaging the community.

6.7.2.3 Build trust and understanding through informal communications at social gatherings

6.7.2.4 Receive information from third parties

- 6.7.3 An informal gathering or discussion of the Council or a Council Committee which is not a 'designated' gathering or discussion will not be open to the public unless otherwise determined by the Council or CEO.

- 6.7.4 Procedures are informal and not prescribed by Regulation however those outlined in Section 6.4 and 6.5 above for a 'designated' informal gathering are applicable.

8. Risk Management

This Policy assists Council to ensure that the statutory requirements for openness and transparency in Council decision-making are observed, while providing an opportunity for confidential discussions among Council Members where this is warranted by the nature of the gatherings or subject matter to be discussed.

9. Implementation/Delegations

The Chief Executive Officer is delegated authority to implement this policy.

10. Related Documents

Code of Practice for Access to Meetings and Documents
Elected Member Training and Development Policy
Informal Gathering Agenda Preparation

11. Availability of Policy

This policy is available on Council's website at www.victor.sa.gov.au. It may also be inspected or purchased at the Principal Office of the Council at 1 Bay Road, Victor Harbor.