

## **Public Health Emergency: Electronic Participation in Informal Gatherings**

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 and has effect for the period specified in section 302B(2)(d)(ii) of the *Local Government Act 1999*.

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 – access to meetings and Code of Practice – proceedings of meetings.

### **Definitions**

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

### **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.

### **Form of Participation by Electronic Means**

Where councils use a system that provides both audio and visual connection, then both must be used (as opposed to just audio). The member must participate by being both seen and heard.

### **Public Access to Designated Informal Gatherings**

During the period within which Notice No.1 applies, an EM Session which is considered open to the public will be recorded and made available to the public as soon as practicable on council's website.

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# Council informal gatherings policy

## 1. Preamble

The contents of and the commitments that Council makes in this policy are not intended to be and should not be interpreted to be any more than a statement of the Council's general position in relation to those matters, and to facilitate its aspirations wherever it is reasonable to do so.

## 2. Purpose

The purpose of this policy is to define the City of Onkaparinga's position in relation to holding Informal gatherings and to ensure elected members have sufficient opportunity to conduct planning sessions, to receive informal briefings and educational sessions, and convene other informal gatherings without prejudicing the requirements for openness and transparency as required by the *Local Government Act 1999*, section 90(8) and regulation 8AB of the *Local Government (General) Regulations 2013*.

## 3. Policy Principles

The *Local Government Act 1999* expressly recognises that the Council may hold 'Informal gatherings' of elected members in circumstances where there is 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).

This policy reflects the intention of the legislation for informal gatherings to be used for briefing, planning and educational sessions and is aimed at avoiding any perception that informal gatherings will be used to build consensus for council agenda items. The purpose of the Council informal gatherings includes but is not limited to allowing the Mayor, councillors and staff to:

- Exchange draft information on proposals that are being worked on by staff or ideas that need to be investigated.
- Provide a forum for discussion on proposed staff and elected member initiatives and discuss options for engaging the community in determining Council's strategic corporate direction.
- Receive briefings including, community organisations, businesses, council programs, LGA and State Government Departments.
- Social gatherings to build relationships between elected members and with staff of the City of Onkaparinga.
- Receive training including any mandatory training.

At Elected Member Sessions (for example, workshops and information sessions) 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 Councils' scheme of delegation.

#### 4. Definitions

An 'informal gathering' is a gathering or discussion to which all Council members or Council committee members (as the case may be) are invited.

Designated informal gathering or discussion

The Local Government (General) Regulations 2013 defines 'designated informal gathering or discussion' as:

*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 for a formal meeting of the Council or Council committee, is not a 'designated informal gathering or discussion'.

#### **Elected Member Sessions**

Elected Member Sessions fall under the definition of a 'designated informal gathering' as defined in Regulation.

#### 5. Elected Member Sessions

Elected Member Sessions will not be used for the purpose of conducting the general business of the council or to stifle debate on issues that may subsequently be dealt with by the council at a formal meeting. However, Elected Member Sessions may be used to discuss issues that involve strategy and policy, a planning session of a general or strategic nature or to brief elected members on issues relating to their decision-making function.

Elected Member Sessions of elected members and council staff are, by their nature, non-compulsory meeting of the council. All elected members are encouraged to attend these sessions, particularly those designed to provide history, context or additional information to assist elected members to carry out their functions.

Elected members through resolution or via discussion with the Chief Executive Officer may bring forward items for consideration of an Elected Member Session. The administration may also schedule an Elected Member Session. Elected Member Sessions will be scheduled and shown on the Reporting Schedule and workplan of the Strategic Directions Committee for elected members' information.

Those attending the Elected Member Sessions should be respectful and show courtesy towards the person speaking and elected members are reminded that the Code of Conduct for Council Members applies, even in this informal setting.

Both the Chief Executive Officer and the Council are responsible for ensuring Elected Member Sessions and discussions are conducted in accordance with the *Local Government Act 1999*.

#### **Public notification**

Where Elected Member Sessions are scheduled regularly to coincide with the Council's meeting cycle and to consider matters that will form part of the Council's meeting agenda, the schedule of sessions will be published on council's website and open to the public. The

place, date and time and list of the matters to be discussed at an informal meeting will also be published on council's website.

### ***Elected member session documents***

Information/draft documentation may be provided to elected members to accompany the discussion. Elected Member Sessions are not subject to the procedural meeting requirements of the *Local Government Act 1999* and *Local Government (Proceedings at Meetings) Regulations 2013* and will not involve a formal minute taking process.

## **6. Confidentiality**

If a topic falls into a category that would normally be kept confidential if it arose at a Council meeting, the item will be placed last and the session will be closed to the general public.

A decision to close an Elected Member Session will consider the nature of information to be discussed including whether the content to be discussed is either a planning session of a general or strategic nature and falls within the confidentiality provisions of section 90(3) of the *Local Government Act 1999*.

The place, date and time and the reason to hold an informal meeting in confidence will also be published on council's website.

## **7. Other gatherings**

The council is aware of the need to balance openness and transparency with opportunities for private discussions between elected members and elected members and staff.

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 Chief Executive Officer.

## **8. Governance**

Any legislative changes will be made automatically. Council will be informed of any legislative changes via Weekly News.

## **9. References**

Section 90(8a) & (8b) of the *Local Government Act 1999*

Regulation 8AB – Informal gatherings and discussions

LGA Informal Gatherings Model Policy

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**Responsible officer(s)/department(s):** Manager Governance

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**Adopted/approved by:** Council

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*The electronic copy is the approved version.*

Before using a printed copy, verify that it is the current version.

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	22 March 2016
	06 September 2016
<b>Date approved/adopted:</b>	Updated in accordance with Local Government (General) Variation Regulations 2016 – operational 24 November 2016. Adopted by Council 21 March 2017.
<b>Next review:</b>	March 2019
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