

1. RATIONALE

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

2. POLICY STATEMENT

This Policy provides for council members to 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 (the Act).

Section 90(8) of the Act allows informal gatherings to be held provided that the discussion does not lead to a decision, or effectively obtain a decision, on a matter that would ordinarily be dealt with at a meeting of Council. 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.

3. OBJECTIVES

“Informal gatherings” are gatherings of some or all Council Members to discuss council business that are arranged by the council (either by the CEO or by the elected council) other than proceedings which are subject to formal notification and minuting e.g. General Council and Committee Meetings. Section 90(8) of the Act provides a list of examples of informal gatherings:

- 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.

Informal gatherings will be used solely for the purpose of generating ideas, sharing information and seeking further information on issues. Staff may receive guidance from informal gatherings as to what topics and information is to be presented to formal meetings but informal gatherings are not to be used for building consensus positions, or making council decisions in any way.

4. POLICY SCOPE AND IMPLEMENTATION

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

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'.

General Business of the Council

Informal gatherings of Council Members, or Council Members and Council staff are, by their nature, a non-compulsory meeting of the council. All council members are however encouraged to attend these sessions. Attendance will be noted and included in the annual report.

Informal gatherings will not be used for making council decisions or to stifle debate on issues that may subsequently be dealt with by the council at a formal meeting.

Timing of, and Access to, Informal Gatherings of Council

For all designated informal gatherings or discussions, the following information will be published on the Council's website:

- (i) the place, date and time at which the designated informal gathering or discussion will be held;
- (ii) the matter that is to be discussed at the designated informal gathering or discussion;
- (iii) 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's website. The declaration must be made prior to the commencement of the designated informal gathering or discussion by the Council or Chief Executive Officer.

For all designated informal gatherings public access will be determined on a case by case basis. The council is aware of the need to balance openness and transparency with opportunities for private discussions between council members and council members and staff to progress Council business.

The Council or Chief Executive Officer may declare a designated informal gathering or discussion to be a 'confidential informal discussion' where the designated informal gathering or

discussion is either:

- (i) a planning session of a general or strategic nature; or
- (ii) 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 (see attachment).

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.

Procedures applying to designated informal gatherings or discussions

Informal gatherings may nominate the Mayor, any other Council Member or any staff member to chair the gathering. Informal gatherings will be chaired informally.

Both the CEO and the person chairing the meeting are responsible for ensuring informal gatherings are conducted in accordance with 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 Council members, relevant staff as required and any other person invited to attend by the Council or the 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 the informal gathering or discussion will only be closed to the public while these confidential matters are considered. The designated informal gathering or discussion will be open to the public for any non-confidential items that are considered.

The Code of Conduct for Council Members applies for informal gatherings and breaches of the Code during or associated with informal gathering will be dealt with under the Council Members Code of Conduct Procedure For Investigating Complaints.

Documentation relating to informal gatherings

Information / draft documentation may be provided to Council Members to accompany the discussion. Such documents are considered internal working documents of council, and therefore any requests for copies of the documentation will be considered on a case by case basis.

Informal gatherings will not involve a formal minute taking process.

Interpretation

This Policy must be enacted in conjunction with any legislative change or regulations.

AVAILABILITY OF THE POLICY

The public may inspect a copy of this Policy, without charge, at the Council offices during office hours.

A copy of the Policy will be made available on the Council Website (www.marion.sa.gov.au).

Further enquiries about the Policy should be directed to the Manager Corporate Governance or by telephoning Council on 8375 6600.

5. REFERENCES

Local Government Act 1999

Local Government (Accountability and Governance) Amendment Bill 2015

Code of Practice – Access to Council Meetings and Documents

Code of Conduct for Council Members

6. REVIEW AND EVALUATION

This Policy will be reviewed within 12 months after a General Election and as required.

Attachment 1

Information and matters within the ambit of section 90(3), Local Government Act

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- (b) information the disclosure of which:
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council; and
 - (ii) would, on balance, be contrary to the public interest;
- (c) information the disclosure of which would reveal a trade secret;
- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which:
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;
- (e) matters affecting the security of the Council, members or employees of the Council, or Council property, or the safety of any person;
- (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- (g) matters that must be considered in confidence in order to ensure that the Council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (h) legal advice;
- (i) information relating to actual litigation, or litigation that the Council or Council committee believes on reasonable grounds will take place, involving the Council or an employee of the Council;
- (j) information the disclosure of which:
 - (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Council, or a person engaged by the Council); and

- (ii) would, on balance, be contrary to the public interest;
- (k) tenders for the supply of goods, the provision of services or the carrying out of works;
- (l) information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Development Plan Amendment proposal relating to the amendment is released for public consultation under that Act;
- (m) information relevant to the review of a determination of a Council under the Freedom of Information Act 1991.

Attachment 2

Public Health Emergency: Electronic 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 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 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.

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:

- (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.

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 minutes will not be recorded.