

Keywords: *Public Community Consultation Engagement*

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Next Review Due:	<i>2021</i>
Responsible Officer(s):	<i>CEO / EA</i>
Council File Reference:	<i>COUNCIL POLICIES (P)</i>
Applicable Legislation:	<i>Section 50 Local Government Act 1999 (SA) – Public Consultation Policies</i>
Relevant Policies:	<i>Access to Meetings - Code of Practice; Order Making Policy</i>
Related Procedures:	<i>Sec. 50(4) – Public Consultation required prior to adoption of the “Public Consultation Policy” and/or alteration/amendment thereto unless (Pt. 6) alteration is determined to be of minor significance. Requires notification in the “Advertiser” for significant changes.</i>
Delegations:	<i>Berri Barmera Council Delegations Register</i>

Purpose

The Public Consultation and Community Engagement Policy has been developed in accordance with the intent and requirements of Section 50 of the Local Government Act 1999. The policy provides a basis for involving the community in planning and decision making processes to ensure effective community engagement and participation in the management of community resources, and to foster a partnership with the local community.

Objectives

The objectives of this Policy are:

- (a) to fulfil the statutory requirements of the Local Government Act 1999 Sec 50;
- (b) to enable the community to contribute to the Council’s decision making through open and accountable processes;
- (c) to promote equity through optimal access to consultation opportunities;
- (d) to provide a framework for the administration’s implementation of the Council’s principles for community engagement, including community consultation.

Public Health Emergency: Public Access and Public Consultation

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 8 April 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the *Local Government Act 1999*, the *Public Access and Public Consultation Notice (No 2) 2020 (Notice No 2)* varying or suspending the operation of the specified provisions of the *Local Government Act 1999* as set out in Schedule 1 to Notice No 2. Notice No 2 commenced operation on 8 April 2020.

For the period Notice No 2 has effect (as provided for in Notice No 2), this Public Consultation Policy is altered as set out below and those alterations have effect notwithstanding any other provision in this Policy to the contrary.

For the avoidance of doubt, save for the alterations to the Policy as set out below, the Policy otherwise applies to public consultation undertaken by the Council for the purposes of the *Local Government Act 1999*.

Alterations to Public Consultation Policy

A. Definitions

For the purposes of these alterations **the Council** includes an officer or employee of the Council acting within the scope of that person's ordinary functions and duties except in circumstances where these alterations expressly require a matter to be considered at a meeting of the Council.

B. Statutory Requirement to Hold Public Meetings Suspended

The Council will not publish a notice in a newspaper circulating in the area of the Council inviting interested persons to attend a public meeting or meeting of the Council in relation to any matter within the scope of Sections 123, 151 or 156 of the *Local Government Act 1999* for which public consultation is required under the *Local Government Act 1999*. The Council will not hold such a public meeting or invite persons to attend a meeting of the Council to ask questions or make submissions on the matter.

The Council will publish a notice in a newspaper circulating in the area of the Council inviting interested persons to make written submissions within the period stated in the notice (which will not be less than 21 days after the publication of the notice) in relation any matter within the scope of Sections 123, 151 or 156 of the *Local Government Act 1999* for which public consultation is required under the *Local Government Act 1999*. The Council will consider the submissions at a meeting of the Council.

C. Other Requirement to Hold Public Meeting Suspended

The Council will not hold a public meeting in relation to any matter for which the *Local Government Act 1999* requires the Council to follow the steps set out in its public consultation policy.

The Council will not hold a public meeting in relation to any matter for which this Policy would, but for this provision, require the Council to hold a public meeting.

To the extent this Policy would otherwise require the Council to hold a public meeting in relation to a matter, the Council will instead publish a notice on its website or in a newspaper circulating in the area of the Council inviting interested persons to make written submissions in relation to any matter within the period stated in the notice (which will not be less than 21 days after the publication of the notice, unless the matter is considered by the Council to require urgent consideration and it is not otherwise contrary to the *Local Government Act 1999* to consult for a lesser period). The Council will consider the submissions.

D. Other Requirement to undertake in Person Consultation Activity Suspended

The Council will not undertake any form of face-to-face or in person public consultation activity (including without limitation a door knock, focus group, forum, briefing session, workshop, open house, citizen panel, conversation café, citizen jury, round table or symposium) in relation to any matter for which the *Local Government Act 1999* requires the Council to follow the steps set out in its public consultation policy.

The Council will not undertake any form of face-to-face or in person public consultation activity (including without limitation a door knock, focus group, forum, briefing session, workshop, open house, citizen panel, conversation café, citizen jury, round table or symposium) in relation to any matter for which this Policy would, but for this provision, require the Council to hold such an activity.

To the extent this Policy would otherwise require the Council to hold a face-to-face or in person public consultation activity in relation to a matter, the Council will instead publish a notice on its website or in a newspaper circulating in the area of the Council inviting interested persons to make written submissions in relation any matter within the period stated in the notice (which will not be less than 21 days after the publication of the notice, unless the matter is considered by the Council to require urgent consideration and it is not otherwise contrary to the *Local Government Act 1999* to consult for a lesser period). The Council will consider the submissions.

E. Suspension of Other Inconsistent Provisions

To the extent that any other provision of this Policy could be read as requiring the Council to undertake public consultation with a person face-to-face or in person, the provision is suspended while these provisions are in effect and the provisions of paragraph D operate in their stead.

Interpretation

For the purposes of this Policy, the following definitions apply:

- (a) *Community* means “the public”. The community includes ratepayers, residents and all people who live, work, study, conduct business or use the services, facilities and public places in the Berri Barmera Council. These people are often referred to as “stakeholders” in the affairs of the Council.
- (b) *Communication* in this Policy, means conveying information to another party.

- (c) *The Act* means the Local Government Act 1999, as amended.
- (d) *Community Engagement* is any process that involves the community in problem solving or decision-making and uses community input to make decisions. Community engagement can include communicating with the community about decisions made; consulting on specific ideas or proposals; involving the community in planning processes; and collaborating with the community to make decisions.
- (e) *Community Consultation is part of community engagement and* means a planned process by which the Council formally invites its constituents and stakeholders to comment about matters upon which Elected Members are to deliberate. This means providing information to the community and eliciting opinions and comments from members of the public, for the Council to consider. The final decision regarding such matters rests with the Council. The Administration may also consult the community regarding specific aspects of programs to be implemented, within the framework of the Council's decisions and the provisions of the Local Government Act or other legislation. The final decision regarding these operational matters, rests with the Chief Executive Officer.
- (f) *Council* means the Elected Members of the Berri Barmera Council. The *Council Administration* refers to the employees and contractors engaged by the organisation.

Principles

The council is committed to open, accountable and responsive decision making, which is informed by effective communication and consultation between the council and the community.

The Council has adopted the following principles as central to effective community engagement and public consultation:

- (a) The community has a right to contribute to and to be informed about key decisions and issues affecting the local area.
- (b) The community is to be provided with adequate information in order to make informed opinions. Information is to be provided to identified stakeholders so that it:
 - (i) is clearly presented and relevant;
 - (ii) is readily accessible;
 - (iii) clearly defines the aspects of the matter which are subject to community comment;
 - (iv) is provided with due regard to the resources available and to relevant legislation, Council Policies and Codes of Practice;
 - (v) clearly states that submissions received will become public documents;
 - (vi) provides contact details for further enquiries; and
 - (vii) outlines the decision making process of which the consultation is a part.
- (c) Appropriate and timely opportunities are to be provided for people to gain access to information and to be involved in community engagement programs and should result in greater confidence in the Council and responsive decision making.
- (d) Presentations by members of the public at formal Council meetings are governed by Local Government (Procedures at Meetings) Regulation number 11 (Deputations).
- (e) The Council has a responsibility to consider all submissions in a balanced way, and recognises that community opinion is one aspect of the decision making process. The Council will strive to make decisions for the good governance of the district as a whole, over the long term, taking account of all the influences and factors relevant to any particular matter. The Council is

required to make decisions that are equitable, economically, socially, culturally and environmentally appropriate, timely and in accord with legislation.

- (f) Community engagement processes will be open, transparent and accountable and within resource constraints. The level and style of engagement with the community will vary depending on the community interest in the matter, the number of people potentially affected by the Council's decision, the resources available, and legislative requirements. An appropriate period of time is to be provided for consideration of, response to and collation of input on the matter.
- (g) Informal consultation methods that capture community engagement commentary are to be included within the reporting of public consultation where possible. An example is:
 - Comments via Council's Social media platforms may be included where appropriate as part of any consultation undertaken by Council.
- (h) The community will be advised of significant decisions which have involved a community engagement process, and there will be readily available public access to the outcomes of all community engagement programs. Consultation and engagement methods may include:
 - Publication in a regular newsletter
 - Letters to residents and other stakeholders
 - Other direct mail publications or letterbox drops, as appropriate
 - Advertising in media outlets as deemed appropriate
 - Media releases to appropriate media outlets and community groups
 - Direct consultation with community representative groups
 - Active and passive use of Council's website and social media
 - Use of a community email database
 - Customer Surveys
 - Fixed displays, e.g. community notice boards

Statutory Requirements

The preparation and adoption of this policy fulfils the council's obligations under section 50(1) of the Local Government Act 1999. Where there are statutory requirements for consultation, these will take precedence over this policy where there is any inconsistency.

Section 50 provides that:

- The council must set out the steps that the council will follow in cases where the Local Government Act requires consultation on a matter, and
 - The council may set out the steps that council will follow in other cases involving the council's decision-making.
- (a) In addition, under the Local Government Act the council has the following obligations where it is required by law to follow its public consultation policy.
- Council must provide interested persons with a reasonable opportunity to make submissions regarding relevant matters
 - Council must publish a notice in a newspaper circulating in the area and on the council's website, describing the matter under consideration and invite interested persons to make submissions within a period (which must be at least 21 days) stated in the notice
 - Council must consider any submission received from the public during the prescribed consultation period.

Council may, from time to time, alter this policy or substitute a new policy. In the instance that any significant changes are being proposed to the public, the council must submit the proposal to a public consultation process.

(b) The Local Government Act 1999 requires that community consultation be undertaken in relation to the following matters. Legislative requirements must be followed with regard to:

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| • Composition and wards of the Council | Section 12(7) |
| • Status of Council or change of names | Section 13(2) |
| • Principal office of the Council | Section 45(3) |
| • Prudential requirements for certain activities | Section 48 (2)(d) (5) & (6) |
| • Public consultation policy | Section 50(6) |
| • Access to meetings and documents - code of practice | Section 92(5) |
| • Strategic management plans | Section 122(6) |
| • Annual Business Plans & Budgets | Section 123(3)(b) |
| • Basis of rating | Section 151(5) |
| • Basis of differential rates | Sec 156(14a) to (14f) |
| • Community land: classification | Section 193(2) |
| • Community land: revocation of classification | Section 194(2) |
| • Community land: proposed management plans | Section 197(1) |
| • Community land: amendment or revocation of management plan | Section 198 |
| • Community land: alienation by lease or licence | Sec. 202(2)& (3) |
| • Permits for business purposes (on roads) | Section 223(1) |
| • Planting of vegetation on roads | Section 232 |
| • Vehicles - Removal | Section 237 |
| • Passing by-laws | Section 249 |
| • Order making policies | Section 259 |
| • Proposing to remove trees and road construction projects | |

Additional Matters For Consultation

Where there are legislative requirements for consultation under other legislation applicable to the council, such as the Development Act 1993, these specific processes take precedence over this policy, should there be any inconsistency.

In addition to the matters set out in the Local Government Act 1999, the Council may choose to follow this policy in regard to other matters. Without limiting the extent of the operation of this policy, issues warranting community consultation may include:

- Major public infrastructure developments - an extended public consultation period of 28 days be undertaken for major public infrastructure developments. Council also take into consideration delivery methods of public consultation and community engagement for major projects.
- The provision of services and facilities
- Traffic management
- Proposals for change

Implementation Of This Policy

This policy applies to Council Members sitting as the elected body, council employees, contractors, agents and consultants acting on behalf of Council.

The Chief Executive Officer is responsible for the implementation of the Public Consultation Policy, establishing the consultation level, reporting outcomes of the consultations to the council, reviewing the value of the policy, and determining elements within that process where Council has delegated responsibility.

ACKNOWLEDGMENT:

This Policy has been sourced from the Unley City Council whose permission has been granted to use as a template by the Berri Barmera Council. Additional text has been sourced from the LGA SA Public Consultation Policy template.