

# THE BAROSSA COUNCIL PUBLIC CONSULTATION POLICY



## 1. Purpose

1. The purpose of this Policy is to ensure that The Barossa Council ("Council") meets its legislative obligations in regard to public consultation by:
- Using appropriate and cost effective methods which are relevant to the specific circumstances of each consultation topic
  - Informing and involving the local community, key stakeholders and interested parties
  - Using feedback to enhance decision making.

## 2. Scope

- 2.1 This Policy applies to Elected Members sitting as the Elected Body, Council Employees, contractors, agents and consultants acting on behalf of Council.
- 2.2 Where there are legislative requirements for consultation under other legislation applicable to Council, such as the *Development Act 1993* or *Freedom of Information Act 1991*, these specific processes take precedence over this Policy, should there be any inconsistency.
- 2.3 The Chief Executive Officer is responsible for the implementation of this Policy, establishing the consultation level, reporting outcomes of the consultations to Council, reviewing the Policy, and determining elements within the supporting process.
- 2.4 **COVID-19 Response – variation to the Policy during the public health emergency**
- 2.4.1 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.
- 2.4.2 For the period of operation of Notice No 2, this Public Consultation Policy is altered as set out in **Appendix 1** to this Policy. For avoidance of doubt, save for the alternations to the Policy as set out in the Appendix 1, the Policy otherwise applies to public consultation undertaken by the Council for the purposes of the *Local Government Act 1999*.

## 3. Policy Statement

- 3.1 Council is committed to open, accountable and responsive decision making, which is informed by public consultation.
- 3.2 In carrying out its consultation processes, Council applies the following principles:
- Council decision making will be informed, transparent and accountable.
  - Members of the community have a right to be informed about issues affecting their area and their lives and to influence Council's decisions about these issues.

- Community interest will vary depending on the issue and the number of people affected, and Council's level of consultation will reflect this.
- Community involvement in Council decision making should result in greater confidence in the Council and responsive decision making.

3.3 The preparation and adoption of this Policy fulfils Council's obligations under section 50(1) of the *Local Government Act 1999* ("the Act"). Section 50 provides that:

- Council *must* set out the steps that it will follow in cases where the Act requires consultation on a matter, and
- Council *may* set out the steps that it will follow in other cases involving its decision making.

3.4 Council has the following obligations where it is required by the Act 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 its 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; and
- Council must consider any submission received from the public during the prescribed consultation period.

### 3.5 Specified consultation requirements

Council is also required by the Act to undertake particular types and levels of minimum consultation in relation to the following issues, noting that for the period that Notice No 2 has effect, variations may apply, as set out in Appendix 1 of this Policy):

- Carrying out representation reviews (section 12(5))
- Considering a change of status of Council or name change (section 13)
- Determining the manner, places and times of its principal office (section 45) – noting that section 45 of the Act is varied for the period that Notice No 2 has effect.
- Carrying out commercial activities - Prudential Arrangements (section 48)
- Adopting or varying a public consultation policy (section 50) – noting that section 50(6) and (7) of the Act are suspended for the period that Notice No 2 has effect.
- Altering the Code of Practice relating to the principles, policies and processes that Council will apply to enable public access to Council and Committee Meetings, their minutes and release of documents (section 92)
- Adopting Strategic Management Plans (section 122)
- Annual Business Plans (section 123) – noting that for the period that Notice No 2 has effect, section 123(4)(a) of the Act is suspended and sections 123(4)(b) and 123(5) are varied as set out in Notice No 2.
- Excluding land from classification as community land (section 193)
- Revoking the classification as community land (section 194)
- Adopting, amending or revoking a management plan for community land (section 197)
- Amending or revoking a management plan for community land (section 198)
- Alienating of community land where the management plan does not allow it (section 202)
- Alienating roads (section 223)

- Planting vegetation where it will have a significant impact on residents, the proprietors or nearby residents (section 232)
- Making Bylaws (section 249)
- Making Orders (section 259)

3.6 Subject to Appendix 1, Council may undertake additional consultation and community engagement on general or specific matters of interest to the community or specific stakeholders of the community e.g. changes to road names, proposal to remove a tree, road construction projects not covered by section 223 of the Act, or investment in particular projects. The level of consultation should be, at a minimum, in accordance with clause 3.4 above.

3.7 At Council's discretion, subject to Appendix 1, depending on the matter under consideration, the resources available to Council and the level of interest the matter is anticipated to generate, other 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
- Community forums and stakeholder meetings – will not be carried out for the period Notice No 2 has effect. Refer Appendix 1.
- Direct consultation with community representative groups
- Active and passive use of Council's website and social media
- On-line engagement portal
- Use of a community email database
- Customer Surveys
- Fixed displays, e.g. community notice boards
- Community group representations to Council workshops

Whichever consultation method(s) is/are selected, Council is committed to ensure that all possible stakeholders are provided the opportunity to engage in consultation processes to provide comment to Council on matters being considered.


3.8 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, Council must submit the proposal to a public consultation process as described in clause 3.5 above. In the event that the Council deems that the alteration is of only minor significance and would attract little (or no) community interest, no consultation is required.

However noting that Notice No 2 suspends the requirement to publicly consult when varying this Policy to incorporate the provisions of the notice (refer Appendix 1).

3.9 After consideration of community feedback, the final decision on any matter before Council rests with Council.

3.10 Those parties aggrieved by a decision of the Council are entitled to lodge a request for review under Council's *Internal Review of Council Decisions Policy* or lodge a complaint with the Ombudsman or Office of Public Integrity.

#### **4. Supporting Processes and Documents**

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All consultation processes are prescribed within the Local Government Act as per clauses 3.5 - 3.7 above.

## 5. Related Policies

Internal Review of Council Decisions Policy

## 6. Legislation and References

Local Government Act 1999, section 50

Local Government Association's Model Public Consultation Policy

Local Government Association's Community Engagement Handbook

*Public Access and Public Consultation Notice (No 2) 2020 (Notice No 2)*

## 7. Review

This Policy will be reviewed by [the Council in consultation with the relevant stakeholders, within four years or more frequently if legislation or Council's need changes.


For the duration that Notice No 2 is in effect, Council may alter its public consultation policy or substitute a new policy without undertaking public consultation, even if the existing public consultation policy requires the council to conduct public consultation. Further, Notice No 2 suspends sections 50(5) and (7) of the *Local Government Act*.

## 8. Further Information

8.1. This Policy is available on Council's website at [www.barossa.sa.gov.au](http://www.barossa.sa.gov.au). It can also be viewed electronically at Council's principal office at 43-51 Tanunda Road, Nuriootpa and all Council branches, during ordinary business hours. A copy of this Policy can be obtained at those venues upon payment of a fixed fee.

8.2. Complaints regarding this Policy or its application can be made to the Customer Service team on 8563 8444 or [barossa@barossa.sa.gov.au](mailto:barossa@barossa.sa.gov.au) at first instance, who will refer you to the most appropriate officer according to Council's *Customer Service Policy* (see clause 8.1 above for availability).

## 9. Document Control

<b>Community Plan Link:</b>		2.8 Provide opportunities for the community to participate in local decision-making.			
<b>Document Owner:</b>	Chief Executive Officer			<b>Document Control Officer:</b>	Governance Advisor
<b>Consultation Rating:</b>	N/A	<b>Audience:</b>	External	<b>Next Review Date:</b>	1/06/2024
Version history					
Version No.	Date	Description of Change			
4.0	19/05/2020	Policy updated to incorporate the <i>Public Access and Public Consultation Notice (No 2) 2020</i> , issued by the Minister for Transport, Infrastructure and Local Government pursuant to section 302B of the <i>Local Government Act 1999</i> in response to the COVID-19 public health emergency			
3.0	26/09/2016	Significant re-work of policy due to amendments from the Local Government (Accountability and Governance) Amendment Act 2015			

2.0	16/04/2013	Policy was significantly updated to provide details of requirements and occasions when Council must follow its Policy and where there are specific alternate processes.
1.0	16/03/2010	New Policy

10. Definitions	
Community Engagement	To involve the community in the decision making processes of Council through informing, consulting, involving and collaborating.
Employee	All full-time, part-time and casual employees of The Barossa Council including trainees and on-hire employees.
Notice No 2	Public Access and Public Consultation Notice (No 2) 2020 issued by the Minister for Transport, Infrastructure and Local Government issued on 8 April 2020, pursuant to section 302B of the <i>Local Government Act 1999</i>
Public Consultation	Two way communications between Council and the community designed to obtain public feedback about ideas on rationale, alternatives and proposals to inform decision making.

<b>Appendix 1</b>	<b>Variations to the Public Consultation Policy pursuant to Notice No 2</b>
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**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

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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.



*The Barossa Council*