




Council Policy

Information or Briefing Sessions



COUNCIL POLICY

 <p>Adelaide Hills COUNCIL</p>	<h2>INFORMATION OR BRIEFING SESSIONS</h2>
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Policy Number:	GOV-23
Responsible Department(s):	Governance & Performance
Relevant Delegations:	As per the delegations schedule and as included in this Policy
Other Relevant Policies:	<i>Advisory Group Operation & Conduct Council Member Conduct Policy Code of Practice for Access to Council, Council Committee and Information or Briefing Session Meetings & Documents Code of Practice for Council Meeting Procedures</i>
Relevant Procedure(s):	Nil
Relevant Legislation:	<i>Local Government Act 1999 Local Government (General) Regulations 2013 Local Government (Procedures at Meetings) Regulations 2013</i>
Policies and Procedures Superseded by this policy on its Adoption:	<i>Informal Council and Council Committee Gatherings and Discussions Policy</i>
Adoption Authority:	Council
Date of Adoption:	26 October 2021
Effective From:	21 June 2022
Minute Reference for Adoption:	Item 12.9, Res 226/21
Next Review:	No later than September 2024 or as required by legislation.

Version Control

Version No.	Date of Effect	Description of Change(s)	Approval
1.0	9/11/21	Initial adoption	Council - -Res 226/21
1.1	11/11/21	Updated legislative references relating to publication of Electronic Participation in Council Meetings Notice (No 5) 2021	N/A
1.2	21/6/22	Provisions relating to Notice No 5 (electronic participation) removed following 28 day elapsed period after Public Health Emergency Declaration cessation	N/A

INFORMATION OR BRIEFING SESSIONS

1. INTRODUCTION

- 1.1. Information or Briefing Sessions provide a valuable opportunity to enhance Council decision-making processes by providing opportunities for Council and Committee Members to become better informed on issues and seek further clarification prior to making decisions at formally constituted meetings.
- 1.2. Open and transparent Council meetings and Council Committee meetings underpin representative democracy and ensure public confidence in Council's decision-making processes. Section 90A(2) of the *Local Government Act 1999* (the 'Act') provides that Information or Briefing Sessions, should not be used, or be seen to be used, as a replacement for full debate and decision-making at Council meetings or Council Committee meetings.

2. POLICY OBJECTIVE

- 2.1. This Policy aims to ensure that the statutory requirements for openness and transparency in Council decision-making are observed; while providing an opportunity for Information or Briefing Sessions to Council and Committee Members, including in confidence where this is warranted by the nature of the subject matter to be discussed.

3. DEFINITIONS

- 3.1. "**Information or briefing session**" is a session to which more than one (1) member of the council or a council committee is invited by the council or the chief executive officer (CEO) of the council to attend or be involved in for the purpose of providing information or a briefing to attendees [Section 90A(1)].
- 3.2. "**Electronic means**" includes a telephone, computer or other electronic device used for communication.

4. SCOPE

- 4.1. This Policy applies to Information or Briefing Sessions of the Council or a Council Committee.

5. INFORMATION OR BRIEFING SESSIONS

- 5.1. Legislative Provisions – s90A of the Local Government Act 1999
 - 5.1.1. The following is a plain English explanation of the provisions relating to information or briefing sessions. For the specific legislative requirements, please refer to of s90A of the *Local Government Act 1999*.
 - 5.1.2. An Information or Briefing Session is a session to which more than one (1) member of the council or a council committee is invited by the council or the chief executive officer (CEO) of the council to attend or be involved in for the purpose of providing information or a briefing to attendees [s90A(1)].
 - 5.1.3. A matter must not be dealt with at an Information or Briefing Session in such a way as to obtain, or effectively obtain, a decision on a matter outside of a formal council or committee meeting [s90A(2)].

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- 5.1.4. Where a matter is to be discussed at an Information or Briefing Session that is or is intended to be on the formal agenda of a council or council committee meeting, the Information or Briefing Session must be conducted in a place open to the public [s90A(3)].
- 5.1.5. Notwithstanding clause 6.1.4, an Information or Briefing Session may be closed to the public to the extent that the council or the CEO consider it necessary and appropriate to the session participants to receive, discuss and consider information of a type provided for in s90(3) of the Act [Section 90A(4)]. See **Appendix 1** for the provisions of s90(3)
- 5.1.6. If an Information or Briefing Session is to be closed to the public, as per clause 6.1.5, an order for the purposes of s90(2) must be made by the Council or the CEO (as relevant) and recorded in writing setting out [s90A(5)]:
- 5.1.6.1. The grounds upon which the order was made;
- 5.1.6.2. The basis on which the information provided at the Information Session relates to the provisions of s90(3); and
- 5.1.6.3. If relevant, as required for elements of s90(3), the reasons that public disclosure of the information would have been contrary to the public interest.
- 5.1.7. The following provisions apply to an Information or Briefing Session [s90A(6)]:
- 5.1.7.1. Sections 90(5), (6) and (7a) of the Act apply as if it was a council or council committee meeting. These provisions in summary are:
- Section 90(5) provides that a person who knowing that a confidentiality order under s90(2) is in force, must not enter or remain in the room and is guilty of an offence if they fails to leave the room upon request;
 - Section 90(6) provides that the provisions of s90(5) do not apply to a member of the council or council committee; or any other person permitted to be in the room by virtue of the s90(2) order;
 - Section 90(7a) provides that a council committee meeting will be taken to be conducted in a place open to the public for the purposes of this section even if 1 or more committee members participate in the meeting by telephone or other electronic means in accordance with any procedures prescribed by the regulations or determined by the council under section 89 (provided that members of the public can hear the discussion between all committee members and subject to the qualification that a council may direct a committee not to use telephone or other electronic means for the purposes of its meetings).
- 5.1.7.2. A prescribed matter cannot be dealt with at an Information Session; and
- 5.1.7.3. A reference to a meeting in s94 – *Investigation by Ombudsman* and s95 – *Obstructing Meetings* apply to Information Sessions.

5.1.8. A council or the CEO must comply with the requirements of regulations relating to the publication of prescribed information relating to the Information or Briefing Session [s90A(7)]. The current provisions are:

5.1.8.1. The following details must be published as soon as practicable after the holding of an Information Session:

- Place, date and time;
- The matter discussed;
- Whether or not the session was open to the public.

5.2. Council Policy

5.2.1. The Adelaide Hills Council operates three types of regular sessions that may come under the definition of an Information or Briefing Session being Workshops, Professional Development sessions and Advisory (or Working) Group meetings. Other briefing sessions may occur on an as needed basis between the Administration and some or all Council Members.

5.2.2. Workshops are held to provide Council and/or Committee Members with historical or contextual information on matters that are likely to come to a future Council or Committee meeting. In this respect most Workshops will need to be open to public in accordance with clause 6.1.4 [Section 90A(3)] unless the confidentiality provisions of s90(3) apply {as per clause 6.1.5 [Section 90A(4)] above}.

5.2.3. Council's position is that all Workshops that are required to be open to the public under s90A(3) will be live streamed unless the confidentiality provisions of s90(3) apply {as per clause 6.1.5 [Section 90A(4)] above}.

5.2.4. A regular practice for Workshops held at Nairne Road Woodside is to allocate time for a public forum (similar to that continued in Council meetings under the *Code of Practice for Council Meeting Procedures*) for the purpose of providing a forum for members of the community to raise matters of interest/concern with the Council Members. The CEO will have regard to this practice, where appropriate, when determining workshop agendas however public forums will not be conducted where the session is being conducted only by electronic means.

5.2.5. Professional Development sessions provide training to Council or Committee Members in topics relevant to their role as Members of the Council or Committee. In general terms the training will not be a topic that will be on a formal agenda of a Council or Committee meeting and therefore the provisions of clause 6.1.4 [Section 90A(3)] to conduct the session open to the public are unlikely to apply.

5.2.6. Council's position is that all Professional Development sessions that are required to be open to the public under s90A(3) will be live streamed unless the confidentiality provisions of s90(3) apply {as per clause 6.1.5 [Section 90A(4)] above}.

5.2.7. Advisory (and Working) Groups' role, as set out in the *Advisory Group Operation & Conduct Policy*, is to provide advice to its Executive Officer on specific matters. These meetings do entail, on occasion, the Executive Officer (a Council Officer) providing a briefing to the Group Members on matters that are likely to come to a future Council or Committee meeting. A number of these Groups have Council

Member membership and therefore will need to be open to public in accordance with clause 6.1.4 [Section 90A(3)] unless the confidentiality provisions of s90(3) apply {as per clause 6.1.5 [Section 90A(4)] above}.

5.2.8. Council's position is that Advisory (and Working) Group meetings that are required to be open to the public under s90A(3) will not be live streamed.

5.2.9. In addition to the mandatory publication requirements as set out in clause 6.1.8, Council has determined that, where reasonably practicable, the details relating to the following Information or Briefing Sessions will be published prior to the session to inform interested members of the public:

5.2.9.1. Workshops;

5.2.9.2. Professional Development {where the provisions of clause 6.1.4 [Section 90A(3)] apply}; and

5.2.9.3. Advisory or Working Group meetings {where the provisions of clause 6.1.4 [Section 90A(3)] apply}.

For the avoidance of doubt, nothing in this section precludes the conduct of an Information or Briefing Session if the details are not published prior to the session.

5.2.10. Information or Briefing Sessions will be chaired by the CEO or another senior Council Officer. The Chair is responsible for ensuring that the purpose, intent and outcomes of the sessions are consistent with section 90 of the Act.

5.3. Administration

5.3.1. A schedule of specific types of Information or Briefing Sessions, (i.e. workshops and professional development/training sessions), is determined by Council. Generally workshops and professional development sessions are each held on a monthly basis unless there is conflict with Council or Committee meetings. The CEO does however have the authority to conduct sessions outside of the Council's schedule.

5.3.2. A schedule of planned workshop and professional development sessions will be published on Council's website. Ordinary Council meeting agendas also will provide the dates/venues of the following three months workshops and professional development sessions together with Council and s41 Committee meetings and Community Forums.

5.3.3. Advisory and Working Groups meet at least quarterly and establish their own meeting schedules.

5.3.4. The following administrative processes for Information or Briefing Sessions, will apply:

- A written record of the persons invited to attend the Information or Briefing Sessions and those persons present at the session will be maintained by Council Administration.
- An outline of topics and activities will be prepared for each Information or Briefing Session and the CEO will aim to circulate the outline to the invitees to provide reasonable notice for preparation, particularly where there is pre-reading recommended.

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- Information or Briefing Sessions are not subject to the procedural meeting requirements of the Act and *Local Government (Proceedings at Meetings) Regulations 2013*.
 - The Council's *Annual Report* will include details of Information or Briefing Sessions held by Council in the preceding financial year, including their purpose, the matters discussed at workshops and professional development/training sessions and whether the public were able to attend

6. DELEGATION

6.1. The CEO has the delegation to:

- 6.1.1. Approve, amend and review any procedures that shall be consistent with this Policy.
- 6.1.2. Make any legislative, formatting, nomenclature or other minor changes to the Policy during the period of its currency.

Appendix 1

Information and matters within the ambit of Section 90(3) *Local Government Act 1999*

- (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;
- (m) 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;
- (n) information relevant to the review of a determination of a Council under the *Freedom of Information Act 1991*.
- (o) Information relating to a proposed award recipient before the presentation of the award.