

# *Council Policy*

Public Consultation



# COUNCIL POLICY

 <p><b>Adelaide Hills</b> COUNCIL</p>	<h2>PUBLIC CONSULTATION</h2>
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<b>Policy Number:</b>	<b>COM-01</b>
<b>Responsible Department(s):</b>	<b>Communications, Engagement and Events</b>
<b>Relevant Delegations:</b>	<b>As per the delegations schedule and as included in this Policy</b>
<b>Other Relevant Policies:</b>	<b>None</b>
<b>Relevant Procedure(s):</b>	<b>None</b>
<b>Relevant Legislation:</b>	<i>Local Government Act 1999</i>
<b>Policies and Procedures Superseded by this policy on its Adoption:</b>	<b>Public Consultation Policy 2015 adopted on 8 September 2015, Item 12.4,46</b>
<b>Adoption Authority:</b>	<b>Council</b>
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<b>Next Review:</b>	<b>No later than January 2023 or as required by legislation or changed circumstances</b>

## Version Control

<b>Version No.</b>	<b>Date of Effect</b>	<b>Description of Change(s)</b>	<b>Approval</b>
1.0	28 January 2020	Code adopted	Council – Res 10/20
1.1	21 April 2020	Addendum added to provide consistency with Public Access and Public Consultation (Notice 2/2020)	Council - Res 64/20

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## PUBLIC CONSULTATION POLICY

### 1. INTRODUCTION

*Section 50 of the Local Government Act 1999 (SA)* (the Act) provides that the Council must prepare and adopt a public consultation policy.

#### 1.1 Purpose

- 1.1.1** The purpose of this Policy is to set out the steps that Council intends to take under the Act in relation to public consultation. This Policy only applies to matters relating to the Act.
- 1.1.2** Community consultation prescribed under other legislation will be undertaken in accordance with the requirements of that legislation, rather than this Policy.
- 1.1.3** Council recognises that there are occasions where community engagement may be desirable, but there is no statutory requirement to undertake the same. Although the Council acknowledges the importance of these occasions, they are not covered by the requirements of this Policy.

#### 1.2 Local Government Act 1999

- 1.2.1** Under Chapter 2 of the Act a council is established to provide for the governance and management of its area at the local level and, in particular:
- (a)** *to act as a representative, informed and responsible decision-maker in the interests of its community; and*
  - (b)** *to provide and co-ordinate various public services and facilities and to develop its community and resources in a socially just and ecologically sustainable manner; and*
  - (c)** *to encourage and develop initiatives within its community for improving the quality of life of the community; and*
  - (d)** *to represent the interests of its community to the wider community; and*
  - (e)** *to exercise, perform and discharge the powers, functions and duties of local government under this and other Acts in relation to the area for which it is constituted.*
- 1.2.2** Section 8 of the Act (Principles to be observed by a council) outlines the performance of its roles and function including but not limited to:
- (a)** *provide open, responsive and accountable government;*
  - (b)** *be responsive to the needs, interests and aspirations of individuals and groups within its community;*
  - (e)** *seek to facilitate sustainable development and the protection of the*

- environment and to ensure a proper balance within its community between economic, social, environmental and cultural considerations;*
- (f) seek to provide services, facilities and programs that are adequate and appropriate and seek to ensure equitable access to its services, facilities and programs;*

**1.2.3** The Council recognises that consultation can result in diverse views being expressed in relation to a particular matter or proposal. In all cases, the Council will consider all relevant facts and circumstances, weighing and balancing competing considerations where necessary, before making a determination. The final decision in matters will rest with the Council.

## **2. POLICY OBJECTIVE**

The objectives of this policy are:

- 2.1** To demonstrate the accountability and responsibility of the Adelaide Hills Council to its community and stakeholders.
- 2.2** Ensure that the Council complies with the mandatory consultation steps prescribed by the Act (type 1 decisions).
- 2.3** Outline the standard consultation steps that the Council will follow in cases where the Council must comply with its Public Consultation Policy as required by the Act (type 2 decisions).
- 2.4** Ensure that the Council complies with the standard consultation steps contained in its Public Consultation Policy as required by the Act (type 2 decisions).

## **3. DEFINITIONS**

**Communication** the imparting or exchange of information between the Council and the community to produce a greater understanding.

**Community** a general term for the people who live, work, study, own property, conduct private or government business, visit or use the services, facilities and public spaces and places of the Adelaide Hills Council. The community are often referred to as “stakeholders” in the affairs of Council. A community may be a geographic location (community of place), a community of similar interest (community of interest), or a community of affiliation or identify (such as an industry or sporting club).

**Stakeholders** are recognised as individuals and organised groups that have an interest in a decision or proposal, or may be directly or indirectly affected by a decision that has been made or is being proposed. Business owners, retail outlets, State and Federal Governments, community groups, Local Government and not for profit organisations

are all considered stakeholders. Stakeholders may also be individuals, groups or organisations who have a role to play in policy development and program or service delivery.

**Engagement** is a generic term to describe the broad range of interactions between Council and the community. Engagement can include a variety of approaches, such as communication, and consultation.

**Public Consultation** is a planned process of engagement where information is provided and community and stakeholders are formally invited, as per the relevant requirements in the Act, in particular s50 (3) of the Act, to comment about matters on which Council will deliberate.

**The Act** is the *Local Government Act 1999 (SA)*.

#### 4. POLICY STATEMENT

**4.1** Section 50 of the Act requires that a council must prepare and adopt a public consultation policy, which may be altered from time to time or substituted with a new policy.

Elsewhere, the Act makes reference to public consultation in various sections.

In some cases, the Act prescribes that public consultation be undertaken in accordance with the minimum requirements of the Act. Refer Part 1 below.

In other cases, the Act prescribes that public consultation be undertaken in accordance with Council's public consultation policy. Refer Part 2 below.

In other cases, the Act does not require that public consultation be undertaken.

#### **4.2 Part 1: Council decisions where the Act prescribes specific public consultation requirements (Type 1 decisions)**

The matters listed below require Council to follow the public consultation steps prescribed in the relevant parts of the Act. Refer **Table 1**.

**Table 1: Matters requiring public consultation in accordance with the Act**

<b>Matter</b>	<b>Act Section reference</b>
Representation Reviews	Section 12
Status of a council/change of names	Section 13

Commercial Activities – Prudential Requirements	Section 48
Public Consultation Policy	Section 50
Strategic Management Plans	Section 122(6)
Applying to vary certain trusts	Section 141
Conversion of Private Road to Public Road	Section 210
Impounding of vehicles	Section 237
Passing By-laws	Section 249
Policies on Orders	Section 259
Stormwater Management Plans	Schedule 1A, Clause 16(2)(c)

In relation to Type 1 decisions as set out in Table 1, the Council will comply with its legislative obligations under the Act. For each of the matters set out in Table 1 refer to the Local Government Act 1999 for the minimum steps to be undertaken.

#### **4.3 Part 2: Council decisions where the Act requires that Council follow its Public Consultation Policy (Type 2 decisions)**

The matters listed below require Council to follow public consultation steps prescribed in the Council's Public Consultation Policy. Refer **Table 2**.

**Table 2: Matters requiring public consultation in accordance with Council's Public Consultation Policy**

<b>Matter</b>	<b>Act Section reference</b>
Principal Office – Opening hours	Section 45(3)
Code of Practice – Access to meetings and documents	Section 92(5)(b)
Annual Business Plan	Section 123(3) and (4)
Changes to Basis of Rating	Section 151(5),(7) and (8)
Rating – Differential Rates	Section 156(14a) and (14d)
Community Land – Revocation of Classification	Section 194(2)(b)

Community Land – Adoption of a Management Plans	Section 197(1)
Community Land – Amendment or Revocation of a Management Plan	Section 198 (2)
Community Land – Alienation by lease or licence	Section 202(2)
Roads – Permits that would result in any part of a road being fenced, enclosed or partitioned so as to impede the passage of traffic to a material degree or for use or activity requiring public consultation under regulations	Section 223
Trees – Planting of vegetation if the vegetation may have a significant impact on residents, the proprietors of nearby businesses or advertisers in the area	Section 232

#### 4.4 Public Consultation Steps

**4.4.1** In relation to matters set out in Table 2, the Council will consult in accordance with the steps set out below, together with any other requirements under the Act.

**Step 1:** Prepare a public consultation plan in relation to the matter having regard to the requirements of the Act, in particular s 50 (3) of the Act, and public consultation policy.

**Step 2:** Obtain approval of the proposed public consultation plan from the CEO or delegate.

**Step 3:** Conduct (plan, deliver and manage) consultation activities in accordance with the approved public consultation plan. The consultation activities will provide for, at least the following:

**Step 3.1)** The publication of a notice:

- a) in a newspaper or newspapers circulating within the area of the council and

- b)** the Adelaide Hills Council website or such other website as may be determined by the CEO describing the matter under consideration and inviting interested persons to make submissions in relation to it within a period (which must be at least 21 calendar days) stated in the notice; and

**Step 3.2)** Copies of the proposal being made available for inspection and purchase at the council's service centres and available for inspection at council service centres and on the Adelaide Hills Council website or a website determined by the CEO; and

**Step 3.3)** The consideration by the council of any submissions made in response to an invitation made in relation to sub-step (1) above; and

**Step 3.4)** Implementation of any other public consultation requirements (if any) prescribed in the relevant parts of the Act; and

**Step 3.5)** In addition to Steps 3.1, 3.2, 3.3, 3.4 above; in circumstances where Council is conducting a public consultation process to which Sections 123(4)(a), 151(7)(a) and (b), and 156(14d)(a) of the Act apply, inviting interested persons to attend a public meeting to be held at least 21 calendar days after publication of the notice regarding that meeting.

**Step 4:** At the conclusion of the public consultation activities, responsible staff will collate and analyse community contributions and responses.

**Step 5:** Responsible staff will then prepare a report which:

- I. Summarises the public consultation process and activities undertaken.
- II. Presents a summary of submissions received (excluding personal identifying details).
- III. Recommends changes (if applicable) to the proposal in response to the submissions made.

**Step 6:** Obtain a Council determination on the proposal (noting that, if there has been a material change to a proposal in response to submissions made, the Council may determine to undertake the standard consultation steps again in relation to the amended proposal).

**Step 7:** Communicate Council determination and how the consultation impacted the decision on Adelaide Hills Council website and/ or website

determined by the CEO.

**Note:** where the Policy refers to consideration or determination by the Council, this may in fact be done by staff acting under delegation or sub-delegation when applicable.

## 5. DELEGATIONS

5.1 The Chief Executive Officer has the delegation to:

5.1.1 Approve, amend and review any procedures that shall be consistent with this Policy.

5.1.2 Make any formatting, nomenclature or other minor changes to the Policy during the period of its currency.

## 6. AVAILABILITY OF THE POLICY

6.1 This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website [www.ahc.sa.gov.au](http://www.ahc.sa.gov.au). Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

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## ADDENDUM

(For purposes of Public Access and Public Consultation Notice (No 2) 2020)

### **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.

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## ADDENDUM

(For purposes of Public Access and Public Consultation Notice (No 2) 2020)

### 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.