

Internal Review of Council Decisions Policy

1. PURPOSE

This Policy establishes a transparent, accessible, and equitable process for individuals to make an application for an Internal Review of a Council decision under section 270 of the Local Government Act 1999. By providing a mechanism for such reviews, this Policy aims to enhance public trust, accountability, and the overall quality of Council's decision-making.

This procedure is required by section 270(1) of the Local Government Act 1999 and forms part of the council's processes for dealing with complaints.

2. POLICY

Council (including Committees, employees and people acting on behalf of Council) make decisions every day which impact on members of the community. It is important that these decisions are transparent, fair, objective, consistent and subject to review.

An Internal Review will examine the decision -making process followed in making the original decision and may also examine the merits of the decision itself (considering both existing and new evidence available). This could lead to the original decision being upheld, varied or overturned.

Council has processes in place for dealing with requests for services and customer complaints. As a general rule, Council will encourage the use of these policies and procedures in the first instance as they offer the potential for more immediate informal resolution.

- Reasonable service requests and services improvement requests will be managed through the Council's Requests for Services Policy.
- Complaints about the actions of the Council, employees of the Council, or other persons acting on behalf of the Council will be managed through the Council's General Complaints Policy.

2.1. Decisions subject to Internal Review

Most decisions of the Council, Council employees and persons acting on behalf of the Council may be subject to an Internal Review under this Policy.

There may be some Council decisions where this policy and process may not apply, such as:

1. The application relates to a matter where another statutory or legislative appeal process is applicable, including (but not limited to) decisions pursuant to:
 - Planning, Development and Infrastructure Act 2016
 - Freedom of Information Act 1991
 - Ombudsman Act 1972
 - A section 255 Order under the Local Government Act 1999
 - Expiation of Offences Act 1996
 - Dog and Cat Management Act 1995
 - South Australian Public Health Act 2011.
2. Matters where Council cannot review its decision (e.g. the annual rate declaration after rate notices have been generated, the decision has already been implemented and cannot be revoked)
3. Where section 270(4) of the Act allows for refusal of consideration, specifically:
 - The application is made by an employee of the Council and relates to an issue concerning the employee's employment or volunteer conduct
 - It appears that the application is frivolous or vexatious
 - The applicant does not have sufficient interest in the matter - this will be determined on a case-by-case basis
 - The CEO or nominated delegate is satisfied that the subject matter of the application has been or is already the subject of a review by the Council or an investigation, inquiry or review by another authority. Matters covered by Code of Conduct for Council members (or equivalent).
4. A recommendation of the Ombudsman.
5. A decision that has already been reviewed under section 270 (unless determined by the CEO on a case by case basis).
6. Matters that have been referred to the Local Government Association Mutual Liability Scheme (LGAMLS).

Applicants wanting an Internal Review should check if any other appeal process apply to their matter before proceeding with an application. Matters that fall outside these specific statutory appeal processes may be considered for Internal Review on a case-by-case basis.

Matters regarding Competitive Neutrality Pricing should be referred to the Australian Competition and Consumer Commission (ACCC). The ACCC is an independent Statutory Authority appointed under the Government Business Enterprise (Competition) Act 1996.

2.2. Applying for an Internal Review

Any person with a sufficient interest in a decision may make an application for a review of that decision within six (6) months of the original decision being made. The CEO has discretion to allow a longer time limit to apply in particular cases, this will be assessed on a case-by-case basis.

To apply for an Internal Review, applicants can access the online form on the Council's website. When completing the online form, applicants will be asked to provide the following information:

1. Clear details about the decision to be reviewed (referred to as 'Reviewable Decision')
2. Reasons for applying for the review including how the decision making process not was in accordance with legislation, policy or procedure; relevant evidence not considered; or if the decision was not lawful – this must be more justification than not being satisfied with the decision
3. Supporting information or evidence associated with the application
4. Details on how the decision impacts on their rights and/or interests (must demonstrate sufficient interest beyond the interest of the general ratepayer)
5. The resolution/action being sought

To improve accessibility, Council will also accept applications for Internal Review in the following additional formats:

1. Written Application: Written application submitted by mail or email.
2. Assisted Applications: Council may offer assistance where appropriate and provide it on request, including assistance in documenting the reasons for applying for the review in writing. Where necessary, access should be provided to interpreters, aids or advocates to assist applicants.

A request by a complainant/applicant for further reasons or explanations in relation to a decision is not a request for an internal review.

There is a prescribed \$20 fee payable for an Internal Review (prescribed by Government Gazette on 16 September 2021). This fee may be reduced, waived or refunded (in whole or part) at the discretion of Council or the CEO.

Applications for a review of a Council decision will be acknowledged in writing within five (5) working days of receiving the application.

2.3. Internal Review process

Upon receipt of a request for an Internal Review the following process will be followed:

1. The CEO will assess the internal review application and determine whether the matter will be subject to an internal review (pursuant to this Policy). Any reasons for refusing an internal review will be provided to the applicant.
2. If the application is eligible under section 2.1 of this Policy, an Internal Review Officer will be appointed to undertake the review. The Internal Review Officer will be independent of the original decision (i.e. have no prior involvement in making the original decision) and should take into account the level within the organisation at which the decision was made. An external advisor may be recommended where the decision under review is complex and/or raises legal questions. The following will assist in determining who will undertake the internal review (noting any application may be referred to Council at the discretion of the CEO):

Original decision maker	Internal Review Officer (may be an external advisor)
Council employee	Nominated by the CEO
CEO	General Manager or Council
Council / Committee	Council

3. Applicants may be given the opportunity to provide a written or verbal submission in relation to the review.
4. The Internal Review Officer will consider the original decision-making process and evidence (merits) used to reach the original decision, including whether:
 - a. The decision maker had the power/delegation to make the decision and exercised it in good faith (without duress or influence of another person)
 - b. The decision maker had no conflict of interest, bias or perceived bias
 - c. All matters were considered which were relevant to the making of the decision and did not consider matters which were not relevant (eg. legislation, policies and procedures)
 - d. Findings of fact were based on evidence and sufficient analysis of the facts was undertaken
 - e. The principles of procedural fairness were followed
 - f. The decision was fair and reasonable
 - g. The decision maker considered any relevant legislation, policies or procedures.
 - h. The decision maker did not exercise a discretionary power at the discretion of another person
 - i. Any additional relevant information or material provided by the applicant is considered.
5. Council will aim to complete the Internal Review within 20 business days of the application fee being received. However, in more complex cases, or if the decision is to be reviewed by Council, Committee or an external provider, a review may take longer. In the event that a review exceeds 20 business days, the applicant will be provided with periodic updates on the progress of the review until the review is finalised.
6. The applicant will be informed in writing of the outcome of the review (whether a determination is made that the reviewable decision is upheld, overturned, varied or other option determined by the CEO).
7. Where appropriate, the findings of the Internal Review will be considered in regard to how Council's existing practices can be improved.

Internal Reviews relating to the impact of rates or service charges on ratepayers will be dealt with promptly and, if appropriate, addressed through the provisions of relief or concessions under the Act. As part of the Internal Review process in these instances, the CEO will consider the impact of rates levied on ratepayers and the provisions available to ratepayers for rate relief or concessions as set out in the Act.

2.4. Procedural Fairness

Principles of natural justice and procedural fairness will be observed in dealing with all applications. Natural justice involves:

1. Every applicant is treated equally and has the opportunity to make an application for review of a decision covered by this procedure
2. Giving an applicant a right to put their case forward and opportunity to provide relevant documentary evidence
3. An unbiased assessment is undertaken
4. Decisions are based on sound evidence
5. The identity of the applicant being kept confidential, where appropriate.
6. Applicants receiving information about the outcome of the review

2.5. Further Options for review of decisions

Where the applicant is dissatisfied with the outcome of the Internal Review process, they may choose to refer the matter to the Ombudsman. A complaint may be lodged with the Ombudsman at any stage of the Internal Review process or after it has concluded.

While Council prefers to resolve requests directly with its customers, pursuant to section 270(7) of the Act, a formal request for an Internal Review does not prevent a complaint being made to the Ombudsman at any time. However as a general rule, the Ombudsman prefers that matters be addressed by Council in the first instance, unless this is not appropriate in the circumstances.

2.6. Reporting

In accordance with section 270(8) of the Act, Council will also provide a data in each annual report on the number, subject and outcome of internal reviews.

3. DEFINITIONS

For the purposes of this policy the following definitions apply:

Act

Local Government Act 1999.

Applicant

A person who makes an application for an Internal Review.

Decision of Council

A formal decision of Council or Council Committee, a decision of an employee of Council made under delegation or decisions of other people acting on behalf of Council.

CEO

The Chief Executive Officer (including their delegate) of the City of Tea Tree Gully. Refer Delegations Register for delegates.

Internal Review

An internal review of a Council decision requested by an individual under section 270 of the Local Government Act 1999.

Original Decision Maker

The person that made the original decision that is the subject of the internal review process

Reviewable Decision

The decision that is being reviewed and reconsidered.

4. LEGISLATIVE FRAMEWORK

There is a legal requirement for Council to develop and maintain policies, practices and procedures for the review of Council decisions and requests for services.

The following legislation applies to this policy:

Local Government Act 1999

Section 270(1) states that a council must establish procedures for the review of decisions of:

- a. The council;
- b. Employees of the council;
- c. Other persons acting on behalf of the council.

Section 270(2) states that the legislative requirements that the procedures must address at a minimum.

4.1. Other references

Council's document including:

- a. General Complaints Policy
- b. Requests for Services Policy
- c. Internal Review of Council Decisions Application (Form)

This policy is based on a model policy and procedure developed by the Local Government Association.

5. STRATEGIC PLAN/POLICY

5.1. Strategic Plan

The following strategic objectives in Council's Strategic Plan 2030 are the most relevant to this report:

Aspiration	Comments
Our Community	
Our programs, events and services are accessible, inclusive and adaptable to meet community needs	No one should be excluded from lodging an application for review because of any difficulties they may have in representing themselves. Council may offer assistance where appropriate and provide it on request, including assistance in documenting the reasons for applying for the review in writing. Where necessary, access should be provided to interpreters, aids or advocates to assist applicants.

Our Leadership	
Our planning and decision making is evidence based, consistent and focused on outcomes for the future	It is important that Council decisions are transparent, fair, objective, consistent and subject to review. An internal review will consider the process and evidence (merits) considered in making the original decision, and the basis for the decision reached to ensure that the original decision was fair and reasonable (valid, appropriate, lawful).

5.2. Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of customer care, learning & growth, future capability and sustainable operations. The key theme most relevant to this policy is sustainable operations, in ensuring that we make consistent, informed decisions which are evidence based.

6. POLICY IMPLEMENTATION

This Policy will be implemented by the Chief Executive Officer or relevant portfolio General Manager and managed in accordance with Council's scheme of delegations.

Record number	D21/90683
Responsible Manager	Manager Corporate Governance
Other key internal stakeholders	Manager Customer & Communications Director Organisational Services & Excellence
Last reviewed	20 May 2025
Adoption reference	GPC
Resolution number	84
Previous review dates	15/12/21, 10/03/20, 28/02/17, 10/12/13, 09/08/11, 09/10/07, 13/03/07, 25/02/03, 13/03/01
Legal requirement	There is a legal requirement for Council to develop and maintain policies, practices and procedures for the review of Council decisions and requests for services.
Due date next review	April 2029
Delegations	Yes