Notice of adjourned Governance and Policy Committee Meeting

Wednesday 4 May 2016

MEMBERSHIP

Cr Matthew Harbinson (Presiding Member)
Cr Brian Massey
Cr Stuart Headland
Cr Justin Hanson
Cr Lucas Jones

NOTICE is hereby given pursuant to Sections 87 and 88 of the Local Government Act 1999 that the adjourned GOVERNANCE AND POLICY COMMITTEE MEETING will be held in the Civic Centre, 571 Montague Road, Modbury on WEDNESDAY 4 MAY 2016 commencing at 6.30pm

A copy of the Agenda for the above meeting is supplied as required

JOHN MOYLE
CHIEF EXECUTIVE OFFICER

Dated: 27 April 2016
AGENDA

1. Opening and Welcome

   Acknowledgement of Country Statement

   “The City of Tea Tree Gully recognises this City’s considerable natural and cultural heritage, including thousands of years of Traditional Ownership by the Kaurna people and the more recent contributions from all who live here. We build on this heritage today by respecting and listening to each other, being receptive to new ideas and acting wisely for the current and future well-being of our community”.

2. Attendance Record:
   2.1 Present
   2.2 Apologies
   2.3 Record of Officers in Attendance
   2.4 Record of number of persons in the Public Gallery
   2.5 Record of media representatives in attendance

3. Confirmation of Minutes to the Previous Meeting

   That the Minutes of the Governance and Policy Committee held on 20 April 2016 be confirmed as a true and accurate record of proceedings.

4. Public Forum

   Available to the public to address the Committee on policy, strategic matters or items that are currently before the Committee. Total time 10 mins with maximum of 2 mins per speaker. For more information refer to Council’s website www.teatreegully.sa.gov.au

5. Deputations

   Requests from the public to address the meeting must be received in writing 5 days prior to the meeting and approved by the Presiding Member. For more information refer to Council’s website www.teatreegully.sa.gov.au

6. Presentations

   Requests from the public to present to the meeting must be received in writing 5 days prior to the meeting and approved by the Presiding Member. For more information refer to Council’s website www.teatreegully.sa.gov.au

7. Petitions - Nil
8. Declarations of Conflicts of Interest

Members are invited to declare any material, actual and/or perceived conflicts of interest in matters appearing before the Committee.

9. Adjourned Business

10. Motions Lying on the Table - Nil

11. Management Reports

   Office of the Chief Executive Officer - Nil
   Assets & Environment - Nil
   Organisational Services & Excellence - Nil
   Community & Cultural Development - Nil

12. Notice of Motions - Nil

13. Motions Without Notice

14. Questions on Notice - Nil

15. Questions without Notice

Other Business

16 Returned Policies

   16.1 Boundary Fence Management Policy .............................................................. 7
       Gabby D’Aloia, Manager Civil Assets

   16.2 Tree Management Policy .......................................................... 15
       Andrew Sellars, Manager Parks
       Robert Gagetti, Manager City Development

17 First Discussion of Policies Prior to Review

   17.1 Use of a Road for a Business Purpose (Permit) Policy ................................. 35
       Craig Hickman, Manager Community Safety

   17.2 Smoke Free Zone Policy ........................................................................ 59
       Mike Burke, Manager Buildings Assets & Environment
18. Status Report on Council and Committee Resolutions

18.1 Status Report on Committee Resolutions ................................................................. 105

19. Section 90(2) Local Government Act – Confidential Items

A record must be kept on the grounds that this decision is made.

20. Date of Next Meeting

15 June 2016

21. Closure

The Committee meeting shall conclude on or before 10.30pm unless there is a specific motion adopted at the meeting to continue beyond that time.
This policy is being returned to the Governance and Policy Committee meeting to allow for further discussion and consideration about fences containing asbestos, laneway fencing and other potential changes to the policy if required.

Resolution from the Governance and Policy Committee on 17 February 2016:

“That after some discussion by the Governance and Policy Committee on 17 February 2016 recommends that the policy entitled “Boundary Fence Management Policy” be returned to the “Governance and Policy Committee” for consideration.”
**RECOMMENDATION**

That the Governance and Policy Committee recommends to Council:

That after consideration, discussion and some minor variations by the Governance and Policy Committee on 04 May 2016 the policy entitled “Boundary Fence Management Policy” be adopted and the former policy entitled “Boundary Fence Management Policy” be revoked.

Or

That after consideration, discussion and some minor variations by the Governance and Policy Committee on 04 May 2016 and given there are no significant changes to the policy entitled “Boundary Fence Management Policy”, it be adopted and the former policy entitled “Boundary Fence Management Policy” be revoked.

Or

That after some discussion by the Governance and Policy Committee on 04 May 2016 recommends that the policy entitled “Boundary Fence Management Policy” be returned to the Governance and Policy Committee for further consideration.

<table>
<thead>
<tr>
<th>Summary of changes</th>
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<tbody>
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**Supporting Information**

**Attachments**

## Boundary Fence Management Policy

<table>
<thead>
<tr>
<th>Record Number</th>
<th>D15/74453</th>
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<tbody>
<tr>
<td>Responsible Manager</td>
<td>Manager Civil Assets</td>
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<td>Other Key Internal Stakeholders</td>
<td>Director Assets and Environment</td>
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<td>Last reviewed</td>
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<td>Adoption reference</td>
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<td>Resolution number</td>
<td></td>
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<tr>
<td>Previous review dates</td>
<td>16/5/13, 16/11/11, 09/10/07</td>
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<td>Reference to Strategic Plan</td>
<td>Physical infrastructure that supports the future needs of our community</td>
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<tr>
<td>Legal requirement</td>
<td>NA</td>
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<td>Due Date of next review</td>
<td>2018</td>
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The electronic version of this document is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.
Purpose

The purpose of this policy is to set out clear responsibilities for the construction, repair and replacement of privately owned boundary fencing where it adjoins Council owned property.

This policy assists in ensuring that all applications for Council assistance regarding boundary fencing work are dealt with in a fair and consistent manner and at a known cost to Council.

Legislative framework and other references

There is no legislative requirement for Council to have a policy relating to this area.

The following legislation applies to this policy:

Local Government Act 1999

This Act grants Council extensive powers under which it may carry out road works (including maintenance to fences on roads), but does not oblige Council to do so.

Fences Act 1975

This Act provides for the erection, replacement, repair and maintenance of fences. The Act does not apply to Council land that is more than one hectare in size or to land forming a road or road reserve.

Fences Regulations 2003

Regulation 3 states:

Pursuant to section 20(3) of the Fences Act 1975, the following classes of land are exempt from the provisions of that Act:

(a) land held by the Commissioner of Highways or any council for the purposes of controlling access to a road or proposed road from land abutting the road or proposed road;
(b) land of, or used by, the Crown, an instrumentality or agency of the Crown or a council that is used solely or principally for the purpose of drainage.

Encroachments Act 1944

This Act provides for the adjustment of boundaries where buildings or walls encroach on adjoining land, and facilitates the determination of boundaries.

Development Act 1993

Any fence (including fence/retaining wall combinations) that is over 2.1 metres in height is subject to development approval under this Act. In some zones (i.e. Hills Face Zone, Flood Zone, Golden Grove Residential Zones etc.), fences that are under 2.1 metres in height also require development approval. A masonry fence that is over one metre in height requires development approval. Fences may also be covered by encumbrances ensuring certain standards are consistently met. Council does not administer encumbrances except those to which it is a party and it does not administer those for the Golden Grove Development Area, which are registered by the Urban Renewal Authority and its antecedents.
Council’s Residential Zones are detailed in Tea Tree Gully’s Development Plan which is available on Council’s website.

**Civil Liability Act 1936**

Section 42 of this Act provides that Council does not have any liability in tort for failure to repair or maintain a road (including structures associated with a road) or to take other action to avoid or reduce the risk of harm that results from a failure to maintain, repair or renew a road.

**Other references**

Council’s document including:

- Entrance Statement Structure Policy
- Fees and Charges Register

**Definitions**

For the purposes of this policy the following definition applies.

**Act** - Fences Act 1975

**Boundary Fence** - a dividing fence where:

- The fence line follows the actual surveyed boundary between Council owned reserves/land and adjoining land that is privately owned
- While not situated on the actual surveyed boundary (for reasons of topography or practicality), follows a mutually agreed give or take fence line.

**Entrance Statement Structure** – An Entrance Statement Structure for the purpose of this policy is a fence or a wall (usually constructed of brick or other masonry materials, sometimes faced with a plastered render which can also be painted) located at the entrance to a street or road that identifies the name of the street or road. They usually have a street name affixed to the structure. An Entrance Statement Structure often forms part of the Boundary Fence of the adjoining land. These fences may include steel or timber decorative treatments on top of the walls.

**Fencing Work** - the erection of a new dividing fence or replacement, repair or maintenance work in relation to an existing dividing fence. The cost may include any work reasonably required to facilitate fencing work such as a survey or clearing vegetation.

**Policy**

This policy will not be applicable when Council’s actions cause damage to any fence. In these instances Council, either directly or through its insurers, may seek to repair the damaged fence, after each situation is assessed against the facts of the matter.

**Standard Fencing**

The City of Tea Tree Gully considers a standard fence to be Colorbond steel, of 1.5 to 2 metres in height. The Act requires adequate fencing to be provided, typical of good fencing in the area and meeting the reasonable needs of both neighbours. Standard fences in the Golden Grove Residential Zones are considered to be of brick, timber, brush or Colorbond
materials. However, as timber and brush fences are flammable and often subject to arson attempts, Council supports appropriately coloured Colorbond steel fences.

For the purpose of this policy, Council will ensure new or replacement fences that are consistent in colour and style to the immediately adjoining fences in the area, or otherwise is comparable to adjacent and/or nearby fences. Where the fencing requires approval, the colour and style will be satisfy the requirements of Council’s Development Plan.

Under no circumstances will Council approve a fence that has post and rails exposed on an adjoining public reserve or other similar public space.

Council’s Responsibility (land less than 1.0 hectare)

The City of Tea Tree Gully will contribute half of the cost of the construction, repair and replacement of a standard fence adjoining a Council owned property which is less than one hectare in area with the exception of road reserves, drainage reserves, streets and walkways as in accordance with the Act. Where a landowner proposes a fence, which in Council’s opinion, exceeds a standard fence, the contribution payable will be limited to no more than would have been payable by Council for a standard fence.

The following principles apply to Council’s contribution to boundary fencing work:

- The contribution will only be payable where Council’s written agreement is obtained in accordance with the required notices under the Act, before construction or repair works begin. Note: in accordance with the Act requirement, Council may be obligated to pay costs if it fails to respond to fencing notices within specified time periods
- Council will conduct investigations to determine the most cost-effective way of resolving problems relating to fencing work and where possible, reach a mutual agreement with the adjoining landowner
- A contribution will not be payable in respect of retaining walls or any structure intended by a landowner to extend the usefulness or enjoyment of private land
- Where it is agreed the adjoining landowner will assume responsibility for the fencing work, Council’s contribution will be payable upon completion of construction of the fence to the satisfaction of Council.

Owners Responsibility (land less than 1.0 hectare)

The property owner must obtain and submit to Council three written quotations from reputable and recognised fencing contractors or builders along with a Notice to Fence pursuant to the Act. In addition, it is the property owner’s responsibility to:

- Obtain approval from the Council to construct a non standard fence abutting a Council owned property prior to construction if the owner is seeking a contribution from Council. Note: development approval may be required and it is recommended that the owner seek advice from the Council Development Assessment Department in this regard
- Obtain prior approval from Council to construct an access through a Boundary Fence in order to access a Council reserve and to pay all costs associated with the construction, maintenance or replacement of any gate or access
- Pay all costs associated with the repair or replacement of any damaged section of a Boundary Fence abutting a Council owned property where damage has occurred through the action or neglect of the property owner or occupier (including their agents)
- Comply with any reasonable condition placed by Council in respect to Council’s response to a fencing notice.
Any failure of a property owner to meet these requirements may result in Council refusing to contribute to costs.

Council’s delegated officers may instigate fence remediation work where the existing fence is considered not fit for purpose or fence construction where there are no fences provided the principles of this policy is adhered to and in a manner that complies with the Act.

**Council Responsibility (land greater than 1.0 hectare)**

Council will not contribute costs to fencing work for adjoining land where the Council property is:

- Greater in area than 1.0 hectare or
- A drainage reserve or
- A street or walkway, or other public thoroughfare.

For additional information relating to Boundary Fence management adjoining Council property, see attachment 1.

**Council Responsibility for Entrance Statement Structures**

Please refer to Council’s Entrance Statement Structure Policy.

**Asbestos Fences**

In instances where the adjoining Council property is less than 1.0 ha in area and Council deems an asbestos Boundary Fence to be a public or a work health and safety hazard, Council may elect to contribute 50% of the costs towards the replacement of part or whole of the fence.

In instances where the adjoining Council property is greater than 1.0 ha in area and Council deems an asbestos Boundary Fence to be a public or a work health and safety hazard Council will consult with the adjoining landowner and may offer to contribute 50% towards the removal costs of the asbestos fence in order to remove the potential hazard. Should this offer not achieve the desired outcome of removing an asbestos fence Council may serve notice on the landowner, using its powers under the *Local Government Act 1999*, in order to remove the hazard.

**Applications**

Applications for a Council contribution must be made in writing and include full details (length, height, location and style) of the type of fence proposed and be accompanied by quotations for the materials and labour costs involved. Where a landowner proposes to supply labour, the estimated value of this labour may be charged for any reasonable time to carry out the required work. Any payment by Council that includes costs based on labour contribution will not be deemed to be an employee or contract arrangement, but simply the property owner performing work on their own property.

**Other Fences (for fences that are excluded from the Act)**

Where Council becomes aware of a fence condition that is considered dangerous to the general public, the Council will initially request the owner to implement the necessary remedial works. If the owner fails to satisfy Council’s request the authorised officers of Council may take the appropriate action to resolve the matter, which may include expiation notices or other legal action.
Inspections

All applications for fencing assistance will result in an inspection of the fence site by an authorised Council officer.

Policy implementation

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

Accessibility

This Policy and Council’s Fees and Charges register are available on Council’s website: www.teatreegully.sa.gov.au

Hard copies can be provided in accordance with Council’s Fees and Charges Register at Council’s Civic Centre at 571 Montague Road, Modbury SA 5092.
At the 9 December 2015 Governance and Policy Committee meeting, the Committee members asked for a presentation to be prepared to provide some examples in relation to tree removal and amenity value proposed in the Tree Management Policy. This information was provided to the Committee at its meeting on 17 February 2016, who subsequently resolved:

“That after some discussion by the Governance and Policy Committee on 17 February 2016 the Committee recommends that the policy entitled “Tree Management Policy” be returned to the Governance and Policy Committee for consideration once the valuation approach and development impact has been discussed at a workshop with Elected Members.”

After discussions with internal stakeholders, and consideration being given to Council’s objectives for urban development, it has been determined that the inclusion of the proposed amenity tree evaluation is at variance to council’s current objectives and has the potential to negatively impact on development.

It is still intended to workshop this subject with Elected Members at a later date, however at this point of time staff are recommending that the policy be considered with the amendments as presented at the Governance and Policy Committee on 17 February 2016 without the amenity tree evaluation information. This revised policy is provided as attached.
RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

That after consideration, discussion and some minor variations by the Governance and Policy Committee on 04 May 2016 the policy entitled “Tree Management Policy” be adopted and the former policy entitled “Tree Management Policy” be revoked.

Or

That after consideration, discussion and some minor variations by the Governance and Policy Committee on 04 May 2016 and given there are no significant changes to the policy entitled “Tree Management Policy”, it be adopted and the former policy entitled “Tree Management Policy” be revoked.

Summary of changes

<table>
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<tr>
<th>Page No.</th>
<th>Heading</th>
<th>Comments</th>
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<tr>
<td>3</td>
<td>Local Government Act 1999</td>
<td>Section 299 reference has been removed as it is potentially being repealed in March 2016 in accordance with the Local Government (Accountability and Governance) Amendment Bill 2015</td>
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<tr>
<td>4</td>
<td>Definitions</td>
<td>New definitions included</td>
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<tr>
<td>9-11</td>
<td>Headings of policy sections</td>
<td>Wording of headings has been amended to be more specific in identifying the content of each policy under each section</td>
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<tr>
<td>12</td>
<td>Section 299</td>
<td>This area has been removed as identified for p.3 changes</td>
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<tr>
<td>13-15</td>
<td>Development</td>
<td>Additional wording incorporated to address development and construction impacts</td>
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Changes during or after GPC Meeting for Council Meeting [date]

Supporting Information

Attachments

1. Tree Management Policy - Reviewed version - April 2016 ............................................... 17
# Tree Management Policy

**Record Number:** D14/80355

**Responsible Manager:**
- Manager Parks
- Manager City Development

**Other Key Internal Stakeholders:**
- Director Assets and Environment
- Director Community and Cultural Development

**Last reviewed:**

**Adoption reference:**

**Resolution number:**

**Previous review dates:** 11/12/12, 18/05/12, 12/08/08, 22/01/08, 25/02/08

**Reference to Strategic Plan:** A sustainable living environment

**Legal requirement:** NA

**Due Date of next review:** 2019

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Item 16.2

Purpose

The purpose of this policy is to formalise Council’s position in regard to the management of the tree and shrub vegetation that is under Council’s care and control throughout the City. This policy applies to various areas including parks, reserves, operational land and roads (including road verges).

This policy aims to establish the direction to be provided to employees to manage its trees and shrubs recognising that the vegetation of the City is one of the key amenities of the area and recognised in Council’s Strategic Plan. This Plan recognises the need to maintain and enhance this amenity while assessing customer requests and various needs for maintenance requirements in a consistent and transparent manner.

Given the potential and likelihood of future liability claims being made against Council, it is desirable for Council to formally establish its position regarding the management of its tree and vegetation amenity. This policy is based on principles and guidelines as set out in the Trees: Legislation and Risk Management Guidelines for Local Government as published by the Local Government Association Mutual Liability Scheme.

This policy should also be read in conjunction with other key relevant policies including Council’s Urban Landscape Master Plan.

Legislative framework and other references

There is no legislative requirement for Council to have a policy relating to this area.

The following legislation applies to this policy:

Local Government Act 1999

Section 221 of this Act stipulates that a person (other than Council or a person acting under some other statutory authority) must not make an alteration to a public road unless authorised to do so by Council. This includes the planting, interference or removal of a tree or vegetation on the road.

Section 232 of this Act outlines the factors that Council must consider prior to the establishment of a street tree, such as:

- **Whether** the vegetation is appropriate to the proposed site, taking into account:
  - Environmental and aesthetic issues
  - The use and construction of the road
  - Potential for interference with structures such as pipes, wires, cables, fixtures, fittings and other objects
  - Road safety matters
  - Other matters (if any) considered relevant by Council

- **If** the vegetation may have a significant impact on residents, the proprietors of nearby businesses or advertisers in the area, Council must follow the relevant steps set out in its Community Engagement (Public Consultation) Policy.

Sections 244 and 245 of this Act provides some protection for Council against liability providing that Council has acted reasonably. Having a policy in this area is seen as being reasonable, appropriate and provides Council with a mechanism for some protection from liability.
Development Act 1993

Significant and Regulated Tree legislation falls within this Act, which protects large truncked trees. The existence of this legislation may impact on the manner and degree that this policy can be implemented when trees that are captured by this legislation are involved. Any work relating to a significant or Regulated Tree on Council land (including roads, community land and operational land) will require two approvals from Council. These approvals may be granted directly by Council, a Committee of Council or officers acting under delegation. The two approvals required are:

- Planning approval by the relevant planning authority, which may be the Development Assessment Commission, Council’s Development Assessment Panel or a Council Officer under delegation
- Local Government Act 1999 - approval as the authority responsible for the land and legal owner of the tree. This approval may be made by Council or a Committee of Council or a Council Officer under delegation.

This Act allows the creation of an Urban Trees Fund managed by Council. Where such a Fund exists, applicants of development applications involving the removal of Regulated Trees have the option to pay into this Fund in lieu of replanting trees on their own land. Money collected can then be used by Council to plant trees within designated areas on Council owned land, maintain vegetation within designated areas or purchase land within designated areas to maintain or plant trees.

Electricity Act 1996

Section 55 of this Act states:

- Council must take reasonable steps to keep vegetation of all kinds clear of public powerlines in accordance with the principles of vegetation clearance as outlined in the Act.
- If vegetation is planted or nurtured near a public powerline contrary to the principles of vegetation clearance, the vegetation may be removed and the cost will be borne by whom the vegetation was planted or nurtured.

Other references

Council’s documents including:

- Biodiversity Strategy 2011-2015
- Community Engagement (Public Consultation) Policy
- Fees and Charges Register
- Open Space Strategy 2011-2030
- Order Making Policy
- Pest Plant and Animal Control Policy
- Urban Landscape Master Plan

External documents including:

- Australian Standard - Protection of trees on development sites (AS4970:2009)
- Australian Standard - Pruning of amenity trees (AS4373:2007)
- Independent inquiry into management of trees on public land - report endorsed by the Local Government Association State Executive Committee
Definitions

For the purposes of this policy the following definitions apply:

CEO - Refers to the Chief Executive Officer (including their delegate) of the City of Tea Tree Gully.

City - Refers to the City of Tea Tree Gully council area.

Fund - Refers to the Urban Tree Fund.

Newly Planted Trees - A tree that has been planted within the last three years, but not yet established.

Regulated Tree - According to the Development Act 1993 this means trees within a designated area as prescribed within regulation 6A(3) and that have a trunk with a circumference of 2 m or more or, in the case of trees with multiple trunks, that have trunks with a total circumference of 2 m or more and an average circumference of 625 mm or more, measured at a point 1 m above natural ground level, but does not apply to those trees listed within regulation 6A(5) or the exemptions listed within schedule 3 of the Development Regulations.

Significant Tree - According to the Development Act 1993 this means a tree declared to be a Significant Tree, or a tree within a group of trees declared to be Significant Trees, by a Development Plan. Regulated Trees within a designated area as prescribed within regulation 6A(3) and that have a trunk with a circumference of 3 m or more or, in the case of trees with multiple trunks, that have trunks with a total circumference of 3 m or more and an average circumference of 625 mm or more, measured at a point 1 metre above natural ground level; but does not apply to those trees listed within regulation 6A(5) or the exemptions listed within schedule 3 of the Development Regulations.

Policy

It is Council’s objective to maintain the tree and shrub vegetation under Council’s care and control in a manner that enhances the amenity of the vegetation throughout the City while at the same time considering the public safety interests of the community.

Council recognises that the task of maintaining trees is a considerable service to the community and the optimum desirable outcomes stated in this policy may be restricted due to number of factors, such as:

- Conflicting needs between amenity and public safety
- Scarcity of resources
- Resource needs of other services provided by Council
- The assessment of issues relating to trees will be based on a whole of lifecycle aspect. That is to say - issues relating to encroaching limbs of a newly planted tree will be considered in conjunction with the value to be provided over many years of a mature tree. Issues relating to leaf fall will be assessed against the amenity and other qualities provided by a tree over its entire remaining life
- Long term sustainability of trees and vegetation generally.
Under the guidance of the CEO, relevant documents will be maintained as reference documents for Council employees and contractors planting and maintaining Council vegetation that will assist employees in implementing this policy. These documents will be consistent with the Australian Standards and Council’s policy position in regard to each of the different situations as set out below.

**Street Trees Generally**

A regular inspection/maintenance programme will be followed to ensure that all street trees are inspected and maintained on a regular cycle. The frequency of this programme will not be less than one inspection per every five years.

Systems will be maintained to facilitate inspections with necessary intervening action to occur whenever a street tree concern is brought to Council’s attention.

The level of height clearance provided along public carriageways will be carried out after due consideration to the traffic speed, traffic environment and nature of the road without guaranteeing full 5 m height clearance across the full width of every Council road. Council will ensure that, at the very least, a 5 m height clearance can be achieved for all standard vehicle widths at some location across the road width on every road to a standard that may vary subject to the specific nature and characteristics of each road.

Council’s objective is for all pedestrian paths to be maintained with a 2.5 m vegetation height clearance.

Roads within the Council area are classified according to various nationally adopted criteria. These criteria enable the significance of specific road verge attributes to be more easily considered for the management of the road reserve. These attributes guide decision making and assist conflict resolution about the range of expectations for various roles and uses of road verges areas. The system of classification continues to be refined to better meet planning considerations, maintenance requirements and other objectives as outlined in this document.

The following classification types for roads are used to classify different tree maintenance standards throughout the City:

**Austroads National Road Function Classification**

Council maintains a detailed road function classifications database (based on the Austroads national model) for all roads in the City.

**Rural areas – arterial roads**

Class 1 - Those roads, which form the principal avenue for communications between major regions of Australia including direct connections between capital cities.

Class 2 - Those roads, not being class 1, whose main function is to form the principal avenue of communication for movements between:

- A capital city and adjoining states and their capital cities
- A capital city and key towns
- Key towns.
Class 3 - Those roads, not being class 1 or 2, whose main function is to form an avenue of communication for movements:

- Between important centres and the Class 1 and Class 2 roads and/or key towns
- Between important centres
- Of an arterial nature within a town in a rural area.

**Rural areas – local roads**

Class 4 - Those roads not being class 1, 2 or 3 whose main function is to provide access to abutting property (including property within a town in a rural area).

Class 5 - Those roads, which provide almost exclusively for one activity or function, which cannot be assigned to classes 1 to 4.

**Urban areas – arterial roads**

Class 6 - Those roads whose main function is to perform the principal avenue of communication for massive traffic movements.

Class 7 - Those roads, not being class 6, whose main function is to supplement the class 6 roads in providing for traffic movements or which distribute traffic to local street systems.

**Urban areas – local roads**

Class 8 - Those roads not being class 6 or 7, whose main function is to provide access to abutting property.

Class 9 - Those roads, which provide almost exclusively for one activity or function and which cannot be assigned to classes 6, 7 or 8.

**Clearance Zones in Conjunction with Austroads Classification**

The following information should be read in conjunction with the sketches in Attachment 1.

**Rural arterial roads – class 1, 2, and 3 roads**

Generally, these roads do not exist within the City of Tea Tree Gully but Council supports the principle that all legal dimensioned vehicles should be able to travel along these types of roads without obstruction from overhanging vegetation.

Council’s maintenance programmes will incorporate this objective.

**Rural local roads – class 4 roads**

Generally, these roads exist within the City of Tea Tree Gully and Council supports the principle that all legal dimensioned vehicles should be able to travel along part of these types of roads without obstruction from overhanging vegetation. This may mean that in locations where lines of sight are reasonable, higher vehicles may not always be able to drive as near to the left hand side of the road as would otherwise be the case.

Council will maintain clear height clearances on these types of roads within the relevant carriageways where there is some form of centrelime delineation which would make crossing the delineation illegal, i.e. solid centrelime, centre median, centre of road safety bar treatment.
Urban arterial roads – class 6 and 7 roads

Generally, these roads do not exist within the City of Tea Tree Gully but Council supports the principle that all legal dimensioned vehicles should be able to travel along these types of roads without obstruction from overhanging vegetation.

Council’s maintenance programmes will incorporate this objective.

Local urban roads – class 8 roads

Generally, these roads exist within the City of Tea Tree Gully and Council supports the principle that all legal dimensioned vehicles should be able to travel along part of these types of roads without obstruction from overhanging vegetation. This may mean that in locations where lines of site are reasonable, higher vehicles may not always be able to drive as near to the left hand side of the roads as would otherwise be the case.

Council will maintain clear height clearances on these types of roads within the relevant carriageways where there is some form of centrelane delineation which would make crossing the delineation illegal, i.e. solid centrelane, centre median, centre of road safety bar treatment.

On roads where the preferred height clearance cannot be maintained a minimum height clearance of 3 m will be maintained to assist with the safe travel of at least a standard passenger car, which will include a standard 4x4 passenger vehicle.

Class 5 and 9 Roads

These roads will be assessed on an individual basis after due consideration to the nature of the road, the type and volume of traffic that can be anticipated along these roads.

Council Trees Encroaching Onto Private Land

As a principle Council will not automatically ensure that Council trees do not encroach onto private land. The following minimum vegetation clearances will be maintained, subject to the limitations set out previously in this Policy, unless the adjoining resident has specifically requested a lesser clearance:

- 500 mm clearance above any boundary fence with adjoining Council maintained land.
- 1 m clearance from any roof or private property.

Council employees as authorised by the CEO will consider other applications on merit but intervention will only occur when it is identified that there is a significant risk to the safety of persons or property.

When a property owner is restricted from maintaining their property in accordance with this section of the Tree Management Policy due to the presence of a significant or Regulated Tree located on Council maintained land and they wish to carry out work on the tree, Council will lodge any development application relating to the tree and bear the costs associated with the application. In all other instances the applicant should pay all relevant costs.
If the tree is considered to be a significant or Regulated Tree as defined in the Development Act 1993, and Council's arborist is supportive of maintenance work on the tree in line with this Policy, then Council will lodge any relevant development application, bear any development costs and if approved, undertake any work as per the approval.

Private Trees Encroaching Onto Council Maintained Land

Where private trees encroach into the required clearance zones for established footpaths, cycleways, horse trails and roads as stated in this policy or other public safety issues have been identified, the matter will be brought to the adjoining property owners’ attention for remedial action.

If the resident fails to comply with a reasonable request under this section Council may issue an order for the required work to be undertaken.

Trees Growing on Council Reserves or Operational Land

Systems will be maintained to facilitate inspections with necessary intervening action to occur whenever a concern relating to a tree growing on a reserve or operational land is brought to Council's attention and the action required is above Council’s minimum intervention levels.

Council’s objective is for all pedestrian paths to be maintained with a 2.5 m vegetation height clearance.

The objective of Council’s vegetation maintenance programme is to ensure that identified hazardous vegetation including dead limbs are not left in place immediately over recreational facilities including paths, seats, tables and playground equipment etc.

At the time any recreational facility is constructed, installed or upgraded any hazardous vegetation will either be removed or the facility relocated to a more appropriate location as part of the construction/upgrade project.

Tree Roots Growing from Trees on Council Maintained Land

Tree roots will often be the first point of blame for cracking or other damage of nearby infrastructure such as driveways (including crossing places), other similar paved areas on private property and private pipes such as water, sewerage gas etc.

Council will not automatically accept responsibility for third party losses purely on the evidence that a tree is nearby and is a possible cause of any loss. In these instances the claimant will need to provide Council with some form of evidence of the cause before Council will take some form of intervening action. Evidence may include the claimant exposing the roots under the damaged infrastructure and requesting Council to inspect.

The extent of Council’s assistance will depend on the findings of any inspection, which could lead to the removal of the trees in extreme circumstances.

Trees and Moisture Extraction from the Ground

Council recognises that trees may contribute to excessive moisture extraction from the ground, particularly in drier periods and the effect of this occurrence may cause soil movement and subsequent cracking of nearby infrastructure, including residential dwellings, swimming pools and other structures.
Council recognises that legislative imposed water restrictions impact on the tree root activity and can increase the potential for infrastructure loss. Either council or private properties reducing their water consumption practices may cause this reduction in soil moisture, which may in turn result in subsequent damage.

Council will not automatically accept responsibility for damages purely on the evidence that a tree is nearby and is a possible cause of damage. In these instances the claimant will need to provide Council with some form of evidence of the cause before Council will take some form of intervening action.

**Debris from Council Trees**

Council recognises that in providing the tree and vegetation amenity enjoyed by its community throughout the City, trees may create some inconvenience or nuisance aspects, which will impact on the community in different ways and to different degrees.

Some of these issues will include:

- Autumn leaf fall of deciduous trees
- Regular leaf fall of evergreen Australian native trees
- Berries, nuts and bark falling onto pedestrian paths or private gardens during specific times of the year
- Pollen.

Council is mindful that different people in the community will have varying degrees of tolerance to these inconveniences but this policy is based on the best fit solution to the community weighing up the level of inconvenience, the amenity value provided through the existence of the vegetation and the cost of implementing solutions to the issues. Any remedial action will be based on a fair and consistent basis throughout the City, however, debris in itself is not a reason for tree removal.

Street sweeping programmes will be developed in such a manner that streets with heavy leaf fall will be given a higher priority than those with light leaf fall with due consideration to seasonal variations.

Council may provide a service whereby residents may rake up leaves and leave them in a tidy pile on the verge for Council employees to collect, after this service has been requested by the resident. This service will only be offered during periods of heavy leaf fall and at a time and frequency at the discretion of the CEO and/or the relevant manager.

Council employees will carefully consider species and related matters prior to approving any tree planting, which will address specific risk management issues with each site.

Residents that are not satisfied with Council’s level of service in this area will be advised that they may put leaves and similar debris in their Council green waste bin, or otherwise dispose of it through various disposal options including Council’s Enviro Care programme. Leaves should not be swept onto the streets because this may increase the potential for blockage or pollution to stormwater systems.

**Works Adjacent to Trees on Council Property**

Where public works (undertaken by contractors, services providers and/or Council Officers) are planned or proposed to be undertaken within the roots zone of a tree, an assessment in relation to the potential impact of the proposed works shall be completed.
Where the proposed works are considered to have potentially negative impact on the tree, alternative design or work methods are to be employed to minimise or eliminate the potential damage to the tree. Tree replacement or relocation are options that can be considered, particular for Newly Planted Trees.

Storm Events - Tree Damage

For the purpose of this policy a significant storm event will be when the CEO or relevant Director declares that a storm event has generated numerous tree damaging requests across the City and it is deemed appropriate for Council to assist with clean up operations. Council will accept requests for a period of 24 hours after the storm, to clear tree debris caused by the storm in private properties providing all vegetation is stacked on the Council verge area in front of the relevant property.

Council will respond to any tree (public or private) that, due to a natural cause or event, requires removal from a public area creating a safety hazard to pedestrians or traffic. The extent of work will be to make the area safe and clear away debris for this purpose only. It will remain the responsibility of the owner of the tree for all other circumstances.

Council will accept removal responsibility for any tree that has fallen from any Council controlled land onto private land subject to the owner/occupier providing the required access authorisation.

Trees and Powerlines

Council will maintain an agreement with SA Power Networks, which sets out overhead electricity line clearance responsibilities and commitments. Any unauthorised plantings on Council land that have breached SA Power Networks planting guidelines becomes the responsibility of Council to manage and Council may elect to either remove any unauthorised planting or alternatively Council may agree to maintain the planting(s) to the clearance standards applying to SA Power Networks where the tree(s) are deemed to be of considerable community amenity.

Tree Removal

While this policy addresses Council’s position on maintaining trees etc. on Council land which is likely to generally result in pruning as the preferred treatment (under the Australian Standard - Pruning of amenity trees). There will be occasions when removal of the tree is the preferred option.

Authorisations to remove Council trees may be granted in instances when the views of Council’s Arborist or the CEO support the removal of the tree as the preferred treatment providing one or more of the following criteria are met:

- The tree is dead, dying, diseased or structurally compromised and is in a location that has the potential to cause significant harm or damage to persons or property.
- The tree is a species that has been identified as a weed in Council’s Pest Plant and Animal Control Policy or a Declared Plant as recognised by the Adelaide, Mount Lofty Ranges Natural Resource Management Board
- The tree(s) has/have been identified for removal in a project plan approved by Council or a relevant Council Committee, it is noted that approval to remove trees on land under Council’s care and control from Council’s Development Assessment Panel is not sufficient enough for approval to proceed without appropriate consideration against this policy by the delegated person or Committee.
- Where the tree is considered to be of limited or low amenity value, as determined by a person appropriately qualified and nominated by the CEO for this purpose.
Developments

Where the criteria listed above do not apply and the tree impinges on the development of the abutting property(ies) and (subject to the exclusions listed below) there are no reasonable design alternatives existing. A reasonable design alternative should involve but not be limited to:

- Deletion of second / additional crossovers to development sites and the requirement for shared access
- The altering of development design to relocate crossovers out of the way of street trees
- The reduction in the number of allotments / properties
- Relocation of proposed services to minimise impact on existing trees

Replacement of trees where there are Newly Planted Trees, the other options above may not need to be appropriate. For example, in the case of recently planted trees with minimal amenity value, it would not be reasonable to request a house to be redesigned to accommodate the retention of the tree.

Where street tree removal is approved as part of a development approval or a section 221 (Alteration of road) of the Local Government Act Application (Application to construct, remove or repair a crossing place, stormwater pipe and connection to the kerb), this will be noted as advice on the provisional approval. The approval will be contingent on the applicant meeting the costs of removal, replacement planting, amenity loss (to the community) and establishment by the Council.

In accordance with Council’s Fees and Charges, the following will apply:

- Removal costs determined by diameter of the tree, when measured at 1 m above natural ground level which defines the tree as small medium or large and will include the grinding of the stump to 300 mm below ground level
- Replacement plantings based on the purchase of a 35 litre pot size tree of a species acceptable to the Council, and include a three (3) year maintenance cost to ensure successful establishment
- Council will be compensated for the loss of a tree amenity using the revised Burnley amenity tree valuation method.

In all other instances a resolution to remove Council trees will be required by Council or any relevant Council Committee.

Unauthorised Works / Poisoned trees

The Council will make the community aware (e.g. placement of a fence and sign) of illegal works and undertake site specific responses following tree poisoning or illegal tree removal. The Council will investigate unauthorised (tree pruning, poisoning/removal) and pursue enforcement action where appropriate in accordance with provisions under section 233 of the Local Government Act 1999.

It is envisaged that the revised Burnley amenity tree valuation method is applied in scenarios where Council may either be considering prosecution under provisions of the Local Government Act 1993 or as a potential civil claim for damages.
**Construction Activities / Events**

Public trees will be protected from construction works and other activities / events that threaten tree health and stability. The Australian Standard for the protection of trees on development sites (AS4970) will be used to achieve consistency in tree protection requirements.

The Australian Standard for the protection of trees on development sites (AS4970) will be used to achieve consistency in tree protection requirements.

**Tree Planting**

The City of Tea Tree Gully Local Government Area covers approximately 95 km² with a population of 100,000 people making it one of the state’s larger local government authorities.

Tree-lined streets help to soften the edges of the urban environment, contributing to a community’s charm, livability and future resilience. In addition to the aesthetic benefits provided by a healthy urban forest, trees also help to clean the air, stabilise the soil, decrease storm water runoff, provide shade to reduce urban heat island effects, reduce summer cooling costs in buildings, and create a welcoming environment for pedestrians.

More trees, landscaped reserves and streets, not only improve the appearance and the environmental quality of an area, they can sometimes have an impact on critical social issues such as health care, education, crime and safety, and economic development. Our community highly values the tree character of the City and the amenity and environmental benefits that this supports. There is a desire to not only retain this character but also to enhance it. This approach is supported by Council’s Urban Landscape Master Plan and subsequent community feedback.

The enduring nature of large trees in a rapidly changing urban environment contributes to their high symbolic values and provides a sense of permanence in our fast-changing society.

A tree planting and selection specification has been developed and will be maintained that guides the planting identified within this policy. The goal of Council is to plant trees on both Council and community land in line with the following principles. Residents may request additional trees to be planted in front of the properties, however, this may be subject to space availability and will be assessed on a case by case basis.

When setting priorities for tree planting consideration will be given where any of the following apply:

- Trees will enhance the visual amenity of the entranceways and other major arterial routes within the City
- Trees will replace trees that have been removed from existing tree lined streets
- Trees will fill the voids in streetscapes
- Trees will significantly contribute to raising areas of low visual amenity value particularly within areas of low tree cover and around areas of industrial development;
- Trees replace ageing street tree populations that are in a state of decline and a phased re-planting program is required to maintain the original street character
- When community consultation strongly supports the introduction of new street planting; or trees are specifically requested by residents.
The above criteria are only a guide and ideally when planting street trees, a tree will be planted in front of each property on the street or where deemed desirable by Council employees. Under extraordinary circumstances, Council will consider not planting trees upon written request to the CEO, where the trees may cause restrictive access, allergies etc. Each case will be assessed on its own merit.

When selecting species of trees for street planting Council will take consideration of the following elements:

- The likely size at maturity with larger areas of open space warranting larger tree species
- Its potential to effect neighbouring landowners
- Its suitability and spacing within the given environment e.g. size of verge in relation to spacing, type of existing planting, level of amenity value
- Its tolerance to pests, diseases, drought and climate change
- The preferences of the local community where discretion is available and
- Any historic tree planting patterns with the use of original species wherever possible
- Its contribution to urban biodiversity on surrounding open space and its potential to extend natural corridors linking reserves.

Council will plant trees where the roadside environment does not limit the tree from reaching its maximum potential. Intense pressure for roadside space from parking and utility providers will result in some locations not being suitable for establishing trees.

When selecting locations for street tree planting Council will consider the following:

- Any underground and overhead services and structures
- Existing crossovers
- Traffic and pedestrian lines of sight
- Areas that have been identified for increased off-street parking or footpath renewal
- Private property structures and access requirements.

**Tree Screening Management**

Council acknowledges the value of tree screens as a prominent landscape feature and recognises that they add character to the City and play an important role in screening roads and industrial developments.

The management of trees within these screens will primarily focus on maintaining and improving their purpose and visual appearance by:

- Gradual thinning and allowing the more desirable species to develop where overcrowding is evident
- Abatement of overhang from pathways and residences where it is creating a nuisance
- Selective removal of suckers and saplings and selective removal of trees where they inhibit the natural regeneration of native trees and shrub species
- Selective removal of trees where safety issues have been identified and alternative courses of treatment are not viable
- Continuing renewal project for older screens that are in a state of decline, or have been identified during the tree screen audit as requiring removal and replacement, and subject to available budgets
- Replanting with appropriate species where the purpose of the tree screen has been compromised.
Development Applications – Replacement Planting of Regulated and Significant Trees

Urban Trees Fund

Council has established an Urban Trees Fund under section 50b of the Development Act 1993. The Development Act indicates that the Fund may be used:

- To maintain or plant trees in the designated area which are or will (when fully grown) constitute Significant Trees.
- To purchase land within the designated area in order to maintain or plant trees which are or will (when fully grown) constitute Significant Trees.

Council will use it for the maintenance and planting of trees which are, or will (when fully grown) constitute Significant Trees under the Development Act. The use of the Fund will be determined by Council employees with guidance from Council’s Biodiversity Strategy 2011-2015 and Open Space Strategy 2011-2030.

Conditions for Replacement Planting on Private Land

Section 42 (4) of the Act requires that if a development authorisation provides for the killing, destruction or removal of a Regulated Tree or a Significant Tree, the relevant authority (in many circumstances Council) must apply the principle that the development authorisation be subject to a condition that the prescribed number of trees (of a kind determined by the relevant authority) must be planted and maintained to replace the tree (with the cost of planting to be the responsibility of the applicant or any person who acquires the benefit of the consent and the cost of maintenance to be the responsibility of the owner of the land).

Where Council is the relevant authority, and an applicant does not apply to pay into the Fund, this legislation requires Council to determine the kind of tree to be replanted. To assist with the selection process, Council will maintain a list of species suitable for replanting within the City of Tea Tree Gully that meet the intent of the Development Act and the Tea Tree Gully (City) Development Plan in relation to Regulated and Significant Trees. Land owners may also seek to choose an alternate tree species not included within the list. In such instances, the suitability of the tree species proposed will be considered by Council’s arborist. This species list will be available on Council’s website.

A condition will be applied to the approval requiring either payment into the Fund or alternatively replacement planting of species defined on the list maintained by Council and the requirements defined in the Development Act. It will be the responsibility of the applicant or beneficiary of the consent to choose the species and location for replanting.

Applicants will be encouraged to source their own professional advice from a nursery, landscape architect, horticulturist, arborist or similar to make an informed decision. Alternatively, applicants have the opportunity to pay into the Fund if they do not want to replant on their site.

Policy implementation

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

This Policy and Council’s Fees and Charges register are available on Council’s website: www.leatreegully.sa.gov.au

Hard copies can be provided in accordance with Council’s Fees and Charges Register at Council’s Civic Centre at 671 Montague Road, Modbury SA 5092.
USE OF A ROAD FOR A BUSINESS PURPOSE (PERMIT) POLICY

Responsible Manager: Craig Hickman, Manager Community Safety

This policy is to be first discussed at the Governance and Policy Committee meeting, as it is due for its three year review.

RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

That after consideration, discussion and some minor variations by the Governance and Policy Committee on 04 May 2016 the policy entitled “Use of a Road for a Business Purpose (Permit) Policy” be adopted and the former policy entitled “Use of a Road for a Business Purpose (Permit) Policy” be revoked.

Or

That after consideration, discussion and some minor variations by the Governance and Policy Committee on 04 May 2016 and given there are no significant changes to the policy entitled “Use of a Road for a Business Purpose (Permit) Policy”, it be adopted and the former policy entitled “Use of a Road for a Business Purpose (Permit) Policy” be revoked.

Or

That after some discussion by the Governance and Policy Committee on 04 May 2016 recommends that the policy entitled “Use of a Road for a Business Purpose (Permit) Policy” be returned to the “Governance and Policy Committee” for consideration.
## Summary of changes

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<td>The Road Alteration and Encroachment Policy, while having a different focus to this Policy, also mentions permits under section 222 of the Local Government Act 1999 (permits for business purposes). Consider if there is enough potential alignment with these policies to consider one broader overarching policy, or whether content is sufficiently different to have two separate policies.</td>
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## Changes during or after GPC Meeting for Council Meeting [date]

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## Supporting Information

Road Alteration and Encroachment Policy provided as reference information only as Attachment 2.
# Use of a Road for a Business Purpose (Permit) Policy

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| Record Number | D16/10933 |
| Responsible Manager | Manager Community Safety |
| Other Key Internal Stakeholders | Director Community and Cultural Development |
| Last reviewed | |
| Adoption reference | |
| Resolution number | |
| Previous review dates | (Previously: Issuing of Permits – Selling of Ice Cream Policy) 09/04/13, 19/01/10, 10/10/06, 25/02/03, 13/03/01 |
| Reference to Strategic Plan | Physical infrastructure that supports the future needs of our community |
| Legal requirement | NA |
| Due Date of next review | 2019 |
Purpose

The purpose of this policy is to state Council's position in regard to the issuing of permits for the use of a Road for Business purposes within the City of Tea Tree Gully. It seeks to clarify the guidelines and principles that will be considered by Council in the granting of these permits.

Vendors sell a range of products from Roads including for short term periods for specific occasions (i.e. selling flowers for Mothers Day) and for more regular and sustained periods as is the case with ice cream vans.

Legislative framework and other references

There is no legislative requirement for Council to have a policy relating to this area.

The following legislation applies to this policy:

**Local Government Act 1999**

Section 188(1)(f) of this Act provides for Council to impose fees and charges in relation to the granting of permits.

Section 222(1) of this Act prohibits a person to use a public Road for business unless authorised to do so by a permit. Use of a Road for Business purposes that is not authorised by a permit is an offence under this Act to which a maximum penalty of $2500 and imprisonment fee of $210 apply.

Section 225 of this Act gives Council power to cancel a permit (i.e. cancellation upon breach of a condition subject to consultation with the permit holder).

**Development Act 1993 and Development Regulations 2008**

Depending on the specific nature and characteristics of the individual business, the selling of ice cream may constitute a change in land use, and may therefore require a separate development approval in accordance with the provisions of this Act.

**Food Act 2001**

This Act is to ensure that food for sale is both safe and suitable for human consumption, prevent misleading conduct in connection with the sale of food and to provide for the application of the Food Standards Code.

Other references

Council's documents including:

- By-Laws 2 – Roads
- By-Laws 3 – Local Government Land
- Fees and Charges Register

Definitions

For the purposes of this policy the following definitions apply:
**Alfresco – an outside eating area**

*Business Purpose* – land that may be used for Business purpose, even if it is not intended to make a profit.

*City* – City of Tea Tree Gully council area

*Fixed Point of Sale* - situations where the permit is for a single specific site.

*Long Term Permit* - a permit issued for a period of more than nine (9) consecutive days but not greater than one (1) calendar year and will be subject to annual review and renewal.

*Mobile Sales* - includes ice cream vans, mobile coffee vans and any other arrangement where sales are not from a single fixed point, but the sales transaction occurs on a Council Road.

*Road* - in accordance with the Local Government Act 1999 a Road is defined as a public or private street, Road or thoroughfare to which public access is available on a continuous or substantially basis to vehicles or pedestrians or both and includes:

  a) a bridge, viaduct or subway or
  b) an alley, laneway or walkway

*Short Term Permit* - a permit issued for a period of not more than nine (9) consecutive days or for single non-consecutive days.

**Policy**

Council may issue conditional permits to vendors for Business purposes including operating an outdoor dining area and selling goods from streets and Roads in the City, pursuant to section 222 of the Local Government Act 1999.

Permits issued may be of a short or long term nature and may relate to sales on a Road from a fixed point or Mobile Sales such as ice cream vans. Conditions of issue may vary for Short or Long Term Permits and between fixed and Mobile Sales. These conditions will be attached to any permit issued.

The issuing of permits will be subject to conditions which address such matters as public safety, health and nuisance issues, public liability insurance requirements and damage to Council’s assets.

Appropriate conditions must be considered by the delegated officer and provided to the applicant in writing as part of any approval process.

In the granting of permits, preference will be given to local traders and this will be reflected in Council’s fee structure.

Council does not encourage the issue of permits where the Issuer intends to sell produce in front an adjoining property. Each application will be treated on its merit.

With respect to food stall and vans, standard conditions will include a requirement to comply with the Food Act 2001 and the applicable Food Safety Code. Council has the power under the Food Act 2001 to inspect food stalls and/or vans.
Short Term Permits - Fixed Point of Sale

Annual events such as Mothers Day where the selling period is clearly of a short defined term (e.g. the eight (8) days prior to Mothers Day and the day itself) requires a single permit per site per applicant. An applicant wishing to sell from multiple sites may include these sites on a single application although a separate fee and assessment process will be required for each site.

Where an applicant wishes to sell products from a location on a regular and/or extended basis exceeding nine (9) consecutive days then a separate fee will apply for each occasion outside of this nine day period. Roadside fruit sellers are an example of such a situation.

A permit shall not be issued unless the necessary approvals under the Development Act 1993 have first been obtained, or it has been determined that a development approval is not required for the establishment of the business.

Where more than one point of sale location applies and a permit is granted and a separate fee will apply for each point of sale location.

Long Term Permits - Mobile Vehicles or Trailers

Traditionally Long Term Permits have been granted in relation to businesses that are involved in Mobile Sales such as ice cream vans who periodically sell at locations across the City. These businesses have been a long accepted feature of this City and permits are usually issued for a term no longer than one year per permit.

Where a vendor operates more than one van or point of sale location, a permit may be issued in respect of each van or point of sale, at Council’s discretion.

Long Term Permits - Cafes, Restaurants and Outdoor Dining

Although they are not a current feature in the Tea Tree Gully landscape “alfresco” type arrangements occupying a Council footpath require a permit from Council to occupy its land.

The granting of the permit under this policy may be subject to the requirement to obtain Development approval and a Liquor Licence approval.

Fees and Charges

Council will charge a fee for issuing these permits and these fees will be based on the following structure:

- Short Term Continual Use - Up to a maximum of nine (9) days as a fee per day
- Short Term Ad Hoc or Occasional Use - To include stalls such as fruit and vegetable i.e. one day per month for 12 months
- Long Term - Mobile
- Long Term - Outdoor Dining fee per chair.

Where the operator of the business is located from outside of the City a higher permit fee will apply, except for mobile vans.

Fees will be charged for permits, as allowed for in section 188 of the Local Government Act 1999. Council's Fees and Charges Register is available on Council's website.
Policy implementation

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

Accessibility

This Policy and Council’s Fees and Charges register are available on Council’s website: www.treeequally.sa.gov.au

Hard copies can be provided in accordance with Council's Fees and Charges Register at Council’s Civic Centre at 571 Montague Road, Modbury SA 5092.
# Road Alteration or Encroachment Policy

**Record Number**  
D14/30245

**Responsible Manager**  
Manager Community Safety

**Other Key Internal Stakeholders**  
- Director Assets and Environment
- Manager Finance and Rating Services
- Manager Civil Assets
- Manager Civil and Water Operations
- Manager City Development
- Manager Parks

**Last reviewed**  
28 April 2015

**Adoption reference**  
Council

**Resolution number**  
135.2

**Previous review dates**  
16/05/12, 12/08/08, 8/4/08, 9/10/07

**Reference to Strategic Plan**  
Physical infrastructure that supports the future needs of our community

**Legal requirement**  
NA

**Due Date of next review**  
2017
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Purpose

The purpose of this Policy is to establish guidelines for the management of third party alterations or encroachments onto public streets or roads that are managed by Council (this includes the footpath or verge areas, or similar, that are outside of the road carriageway but in Council ownership).

The existence of this Policy will assist in limiting Council’s liability (risk, maintenance, replacement etc) against any future claims arising due to alterations or encroachments within the road reserve.

Legislative framework and other references

There is no legislative requirement for Council to have a policy relating to this area.

The following legislation applies to this Policy:

**Land and Business (Sale and Conveyancing) Act 1994**

Sections 7 and 12 outlines what information needs to be provided to purchasers and applicants.

**Local Government Act 1999**

Section 217 of this Act provides that Council may, by order in writing to the owner of a structure or equipment (including pipes, wires, cables, fittings and other objects) installed in, on, across, under or over a road, require the owner:

- To carry out specified work by way of maintenance or repair
- To move the structure or equipment in order to allow the Council to carry out roadwork.

Section 218 of this Act provides that Council may, by order in writing to the owner of land adjoining a road, require the owner to carry out specified work to construct, remove or repair a Crossing place from the road to the land.

Pursuant to Section 221 of this Act, a person (other than Council or a person acting under some other statutory authority) must not make an alteration to a public road unless authorised to do so by Council.

Section 221(5) of this Act states that Council is not liable for injury, damage or loss resulting from anything done under the authority of an authorisation under section 221(2)(b).

Section 222 of this Act provides that Council can issue a permit for the use of a road for business purposes for periods of up to 5 years.

Section 223 of this Act provides that under certain circumstances Council must undertake public consultation prior to issuing a permit under section 221 or 222 in certain circumstances.
Before the authorisation for the installation of a structure on a road is granted, Council must give consideration to whether the structure will:

- Unduly obstruct the use of the road
- Unduly interfere with the construction of the road
- Have an adverse affect on road safety.

Section 225 of this Act states that Council may, by notice in writing to the holder of an authorisation or permit, cancel the authorisation or permit for breach of a condition with appropriate consultation with the holder.

Prior to Council planting vegetation or authorising or permitting the planting of vegetation on a road, section 232 of this Act requires Council to consider the following:

- Whether the vegetation is appropriate to the proposed site, taking into account:
  - Environment and aesthetic issues
  - The use and construction of the road (including the potential for interference with the construction of the road or with structures (including pipes, wires, cables, fixtures, fittings or other objects) in the road)
  - Road safety matters
  - Other matters (if any) considered relevant by Council

- If the vegetation may have a significant impact on residents, the proprietors of nearby businesses or advertisers in the area, follow the relevant steps set out in Council’s Community Engagement (Public Consultation) Policy.

Section 234 of this Act states that Council may remove and dispose of any structure, object or substance from a road if it has been erected, placed or deposited on the road without the authorisation or permit required; the authorisation or permit has been granted but has expired or been cancelled.

This may include unauthorised encroachments from a public road.

**Development Act 1993**

Section 33 of this Act requires Council as an approving authority to deal with alterations or encroachments over public land places in a satisfactory manner.

**Telecommunications Act 1997 (Cth)**

Schedule 3 of this Act provides carriers with powers to enter land to inspect land, maintain facilities and install certain types of facilities, and immunity from some state and territory laws, including planning laws, when carrying out those activities. This Act requires for carriers to pay compensation for financial loss or damage that occurs as a result of the use of powers and immunities in the event that they were to exercise their powers under the act.

**Other references**

Council's documents including:

- Application for a Permit to Sell from Streets and Roads (Form)
- Application to Construct, Remove or Repair a Crossing Place, Stormwater Pipe & Connection to Kerb (Form)
- Application to Install an Underground Electrical Service within a Council Road (Form)
- By-Law No.2 – Roads, addresses alterations and encroachments over public streets and roads
- Fees and Charges Register
- Guideline for the Approval of an Underground Electrical Service Installation
- Permit to Sell Ice Cream and Ice Confections from Streets and Roads Application Form
- Records Management Policy and Procedures
- Tree Management Policy

Forms are available from Council’s website: [www.teatreegully.sa.gov.au](http://www.teatreegully.sa.gov.au)

External documents including:

- AS/NZS 3000:2007 - Electrical installations (known as the Australian/New Zealand Wiring Rules)

**Definitions**

For the purposes of this Policy the following definitions apply:

*Alteration(s) or Encroachment(s)* - Any structure or vegetation that extends into a public street or road or is positioned in a public street or road.

*Contiguous land* - Under section 49 of the Local Government Act 1999, land will be regarded as being contiguous to other land if the land –

a) Abuts on the other land at any point
b) is separated from the other land only
   
   (i) a road, street, lane, footway, court, alley, railway or thoroughfare
   (ii) a watercourse or channel
   (iii) a reserve or other similar open space

*Council* - The elected member body or employees acting under delegation or authorisation.

*CROSSING place* - The section of land that connects a private driveway (from the property boundary) to the public carriageway.

*DPTI* - Department of Planning, Transport, and Infrastructure

*Act* - Local Government Act 1999

*Permits* - For the purpose of interpretation of this Policy the terms “permits”, “licence” and “authorisation” will have the same meaning.

*Public street or road* - The road, for the purpose of this Policy, includes the road carriageway, the road shoulder, the kerb and watertable, footpath or other similar paths and verge areas.

*Regulated Tree* - According to the Development Act 1993, this means:

- Trees within a designated area as prescribed within regulation 6A(3) and that have a trunk with a circumference of 2 metres or more or, in the case of trees with multiple trunks, that have trunks with a total circumference of 2 metres or more and
an average circumference of 625 millimetres or more, measured at a point one metre above natural ground level, but does not apply to those trees listed within regulation 6A(6) or the exemptions listed within Schedule 3 of the Development Regulations.

Vegetation - Any species of plant or plants (including all trees and vines), whether alive or dead.

Policy

Private Alterations or Encroachments can pose problems such as poor drainage, street obstructions and long term safety risks. They can also diminish Council’s ability for good governance and increase liability risks for Council and the public.

This Policy will assist Council in responding to applications by third parties for Alterations or Encroachments, and establish a framework for Council management of Alterations or Encroachments that have been identified as having been established prior to any approval for such works being sought or granted.

Any person who alters a public road or uses a public road for a business purpose without obtaining Council permission is respectively guilty of an offence under section 221 or 222 of the Act. In addition to removing any unauthorised Encroachment or Alteration to a road, Council reserves its right to prosecute the person responsible for the unauthorised Encroachment or Alteration and/or in the case of the unauthorised use of a road for business purposes, to expel the person for the offence.

Some encroachments on roads will be charged Council rates and must be addressed in any licence issued in respect of the encroachment and specify that the rates liability arises since the licensee, as an occupier of Council land is the principal ratepayer. Further consideration must be given to whether or not the land subject of such a license is contiguous with other land occupied by the licensee. If this is the case it is appropriate for only one rating assessment to be raised.

Identification of an Alteration or Encroachment

On identifying the existence of an Alteration or Encroachment it will be necessary for Council to determine whether the Alteration or Encroachment is of such a nature that it poses a risk to other users of the public street or road in which it is located.

Factors must be taken into account in determining whether an Alteration or Encroachment poses a risk to the users of the public street or road include but are not limited to whether the structure will:

- Unduly obstruct the use of the road
- Unduly interfere with the construction of the road
- Have an adverse effect on road safety
- Any other factors council determines to take into consideration.

The above criteria will be formally documented in the assessment (approval or refusal) of any Alteration or Encroachment.

Alterations or Encroachments identified as a risk to the public

Where it is deemed that an Alteration or Encroachment is a risk to the public, the following principles will apply:
The owner of the adjoining land or person responsible for any relevant Alteration or Encroachment will be advised that the Alteration or Encroachment must be removed within a specified time, at the adjoining owners’ expense.

If the Alteration or Encroachment is not removed within the specified time, action may be instigated to remove the structure or vegetation and Council may recover the costs of removal from the owner of the adjoining land or person responsible for any relevant Alteration or Encroachment. Action may include an order being served on the adjoining land owner (refer to section 217 and 218 of the Act).

**Alterations or Encroachments that do not pose a significant risk to the public**

Where it is deemed that an Alteration or Encroachment does not pose a significant risk to the public, the following principles will apply:

- The Alteration or Encroachment may be required to be removed by Council or;
- A permit may be issued to the owner of the adjoining land or person responsible for any relevant Alteration or Encroachment, which allows the Alteration or Encroachment to remain on the public street or road (with conditions).

If Council determines that the Alteration or Encroachment should be removed, it will follow the principles as set above.

**Classification of Alterations or Encroachments**

All Alterations or Encroachments, for the purpose of this Policy, should be classified according to the following four types:

**Type 1**

Alterations or Encroachments that are of a minor nature with low impact and are unlikely to result in a significant risk (financial or public liability) for Council, including (but not limited to):

- Standard in ground concrete (or otherwise surfaced) pedestrian access ways to premises (not driveways)
- Landscaped areas and gardens adjoining residential premises that do not hinder public use of the roadway for its intended purpose
- Hardstand areas up to one square metre
- Resident funded private parking bays (maximum of two car spaces) for residential purposes.

Rates: these types of Alterations or Encroachments are considered to be low in value and the Valuer-General would not allocate resources to facilitate the establishment of a separate valuation and therefore cannot be rated. Furthermore, these types of Alterations or Encroachments are not considered to have exclusive use of the verge areas so rating them is not appropriate.

**Type 2**

Alterations or Encroachments that provide minor services to private properties, including:

- Crossing places
- Stormwater pipe connections
- Underground electrical services.
These treatments are primarily for providing access and/or services to private properties and do not provide any exclusive use of the road or road verge area.

Rates: these types of Alterations or Encroachments are considered to be low in value and the Valuer-General would not allocate resources to facilitate the establishment of a separate valuation and therefore cannot be rated. Furthermore, these types of Alterations or Encroachments are not considered to have exclusive use of the verge areas so rating them is not appropriate.

**Type 3**

Alterations or Encroachments that are of a significant nature which may result in a significant risk (financial or public risk) for Council, generate a significant benefit to the applicant, or restricts public access, including (but not limited to):

- Above ground access stairs or ramps
- Monitoring Bore for commercial purposes
- Hardstand areas of one (1) to five (5) square metres
- Handrails
- At ground level access stairs or ramps (i.e. stairs that follow the ground line or built into the ground) for the purpose of providing access into residential property
- Other Alterations or Encroachments that do not require approval under the Development Act 1993
- Retaining walls with a height not greater than 600mm and/or not more than 600mm encroachment onto the road or street.

It is noted that certain variables relating to each application are likely to require specific treatment in the consideration of any approvals. Such special treatment may include matters like (but not limited to):

- Permits for six (6) years or more are likely to require development approval and require a File Plan to be established under the approval process
- Business use permits cannot be for a period of five (5) years or more (section 222)
- Public consultation may be required before approval can be considered.

If approval is granted for such Alterations or Encroachments, the applicant must enter into a formal agreement with Council (drafted by Council’s solicitors).

Rates: these types of Alterations or Encroachments are considered to be low in value and the Valuer-General may not allocate resources to facilitate the establishment of a separate valuation and therefore will not always be rated. If a separate valuation can be obtained and it is identified that they should be rated, as they, in a minor way, will detract from the amenity of the area.

Given that they are likely to attract a minimum rate that in many instances will be substantially greater than the annual licence fee, Council will rebate rates where possible to the effect that the annual Council rates will be no more than 50% of the annual licence fee.
Type 4

Alterations or Encroachments that generate significant benefit to the applicant or remove public access, including (but not limited to):

- Fenced areas
- Hardstand areas greater than five (5) square metres, which may include parking for vehicles
- Alterations or Encroachments that require approval under the Development Act 1993
- Private parking bays (more than two (2) car spaces) for commercial purposes, or for residential purposes (resident funded)
- Extensions of private businesses onto public roads that require alterations to the road
- Retaining walls 600mm (or greater than) in height.

Consideration should also be given as to whether an encroachment, while not necessarily posing a significant safety risk, may give rise to undesirable precedent to other locations.

Residential property encroachments which in any way reduce public access to, or enjoyment of, Council land will generally not be allowed unless the encroachment is beneficial for public safety reasons.

If approval is granted for such Alterations or Encroachments, the applicant must enter into a formal agreement with Council (drafted by Council’s solicitors).

Rates: Providing Council can obtain a separate valuation for the licenced area from the Valuer-General these applicants must be charged Council rates. Council will rebate rates where possible to the effect that the annual Council rates will be no greater than 75% of the annual licence fee.

Permits for Alterations or Encroachments

From time to time, Council may receive applications for Alterations or Encroachments from an adjoining land owner/occupier. Appropriate delegations will be established in order for Council to be able to consider applications and respond to them in accordance with this Policy in a timely and efficient manner.

General

Council may grant approval or permits for Alterations or Encroachments to adjoining landowners subject to the following general conditions:

1. The adjoining land owner/occupier must complete any required and relevant application forms (available from Council), and pay any relevant application fees in accordance with Council’s Fees and Charges Register

2. In granting approval or permit for an Alteration or Encroachment, consideration will be given to its:
   - Extent
   - Location relative to the applicants property i.e. is it adjoining the applicants land
   - Type
   - Potential effect on pedestrian or vehicular access
3. Before the Council authorises the erection or installation of a structure on a road, Council must give consideration to whether the structure will:

- Unduly obstruct the use of the road
- Unduly interfere with the construction of the road
- Have an adverse affect on road safety

and this must be evidenced in the appropriate approval documentation

4. Successful applicants must enter into an appropriate agreement with Council, depending on the type of Alteration or Encroachment

5. All work undertaken must comply with the sketch or plan submitted as a part of the application and meet all relevant standards

6. Work cannot commence prior to a permit or approval being issued

7. All costs associated with the installation and maintenance of the approved works will be borne by the applicant

8. The applicant must maintain all approved works in good condition

9. In the event of changes to property ownership, the responsibility for maintenance of any approved Alteration or Encroachment will be brought to the attention of the future owners of the property

10. All Alterations or Encroachments must be of a nature that can be demolished or removed if so required. All costs related to any instruction to demolish or remove an Alteration or Encroachment will be borne by the applicant

11. The applicant must obtain all necessary approvals prior to undertaking any work within road reserve. The cost of any such approvals is to be borne by the applicant

12. The permit holder agrees to indemnify and to keep indemnified Council, its servants and agents and each of them from and against all actions, costs, claims, damages, charges and expenses whatsoever which may be brought or made or claimed against them or any of them arising out of or in relation to the issuing of the permit

13. If the permit holder wishes to alter the approved Alteration or Encroachment at any time, a new application will need to be made

14. Regardless on any condition of approval it is noted that from time to time Council or other service authorities responsible for public infrastructure, including, but not limited to, water supply, effluent disposal, telecommunications, gas supply and electricity supply may need to work on the public land developed by the adjoining owner under approval by Council. These authorities may interfere with the approved work and have no legal obligation to reinstate the area
15. Council reserves the right to withdraw any approval or permit granted at any time. This could be required when the circumstances, relating to the land upon which the approval was related, changes.

16. Any other condition deemed appropriate by the relevant Council delegate.

Information will be updated for approved authorisations and permits in Council’s Road Authorisations and Permits Register.

**Permits for Type 1 Alterations or Encroachments**

The following conditions apply to permits for Type 1 Alterations or Encroachments (in addition to the conditions set out above):

**Vegetation Alterations or Encroachments**

Pursuant to section 221 of the Act, Council has the power to issue a permit which authorises the owner or occupier of any land abutting any public street or road to plant vegetation in the street or road. Council will not issue such a permit unless it is satisfied that the proposed vegetation will not have an adverse effect on road safety.

Council will not issue a permit pursuant to section 221 of the Act in respect of any street or road that is maintained by the Commissioner of Highways unless the Commissioner gives written approval for the granting of the permit. The Commissioner of Highways may, at any time, revoke the approval and Council will be required to revoke the permit.

Further considerations for vegetation related alterations include:

1. Any proposed planting must not compromise the health of any existing street trees or other Council plantings
2. Any landscape work must not have any raised hazardous edges or tripping hazards
3. Trees and shrubs with potential large branches should not be planted close to fences or other infrastructure so as to cause future damage
4. Plants should not be located as to create restricted lines of sight, which could be hazardous to pedestrians or motorists
5. Corner properties may require special consideration
6. An area (minimum width 1.5 metres from the kerb) to serve as a pedestrian refuge area is to be left clear for passengers to enter and exit from parked vehicles and for general pedestrian access. This area can be a rubbled surface, levelled grass or lawn, or sealed by paving, concrete or bitumen depending on the adjacent environment. Mulch, scoria or bark is not considered an appropriate treatment of this area
7. It is recommended that prior to commencing any digging on the road verge area that underground service locations are identified. This can be achieved by contacting “Dial Before you Dig” on telephone number 1100 or their website at www.dialbeforeyoudig.com.au
8. Any existing street tree must not be removed or pruned without approval
9. Any plants, which become diseased or die, must be replaced by suitable species (excluding any vegetation that is considered to be a Regulated Tree under the Development Act 1993, which will require formal planning approval before work can commence)

10. Any planted areas are to be kept free of weeds

11. Overhanging vegetation is to be maintained and is not to encroach into any walkways or road carriageway areas

12. Any pavers used must be 60mm thick, made from concrete or clay and have a non-slip surface

13. The pavers must be laid on a base of 100mm quarry rubble by a tradesperson who has adequate Public Liability insurance

14. Any rubbled surface must be excavated to a depth of 100mm and replaced with compacted 7-20 mm dolomite or quartzite quarry rubble. All dust must be suppressed after compaction

15. Parking of vehicles is not permitted on any paved, rubble or dolomite areas, unless approval has been granted to allow this activity

16. Council retains all rights over the area to be landscaped and no reimbursement will be made for the removal of any plants or material if these have to be disturbed or removed in the future.

Private parking bays

Council may approve the construction of parking bays subject to the following conditions:

1. The parking of a vehicle in the allocated parking bay does not impair sight distance on bends or intersections

2. The approved parking bay is maintained at the applicant’s expense in accordance with Council specifications (appropriate Australian Standards and Codes)

3. Any parking bay on a road verge is available for public use and is not an exclusive parking bay for the permit holder.

Permits for Type 2 alterations or encroachments

The following conditions apply to permits for Type 2 Alterations or Encroachments (in addition to the conditions set out in the General heading).

Pursuant to section 221 of the Act, Council may grant to any person a permit to erect, change, alter, remove or install a structure (including pipes, wires, cables, fixtures, fittings and other objects) in, on, across, under or over a road or public street within its area.

Approval will be sought from the DPTI prior to Council issuing any approval for a licence on a main road under the authority of DPTI under these classifications.
Prior to any approval being granted Council will consider and consult where necessary with any relevant authorities relating to the delivery of services including water, gas, electricity or telecommunication.

**Crossing places**

Council may approve the construction of crossing places subject to the following conditions:

1. The construction of crossing places will meet the minimum requirements set out in Council’s internal procedures. This document will be maintained to current standards by the relevant employees.

2. Where the distance between the kerb and property boundary exceeds four (4) metres, the requirement for a hard surface crossing place in accordance with the specification may be reduced to the distance between the edge of the carriageway and the back of the footpath alignment.

3. Where an existing crossing place is constructed with a compacted rubble or earth surface, the requirement for a hard surface crossing place in accordance with the specification will be enforced where:
   - Council inspection of the crossing place reveals that the condition exceeds the standard maintenance intervention levels for crossing places and exposes a public risk liability for Council and/or the property owner.
   - The property owner, having been advised of the repairs required has failed to undertake such repairs or has subsequently failed to maintain the crossing place within the maintenance service levels stipulated.

4. It will be the responsibility of the owner of the adjoining land to arrange for the removal of any redundant crossing places and accept all associated costs.

5. Should development require a driveway or service connection to the street, designs will avoid or minimise impacts on existing trees that are to be retained in accordance with Council’s Tree Management Policy.

6. A crossing place will not be approved or installed within one (1) metre or 2.5 times the tree’s diameter measured at one (1) metre above the natural ground level (whichever is greater) of any Council tree, unless essential to provide primary access.

7. A crossing place will not be constructed or installed within one (1) metre of a stormwater side entry pit.

8. If approval is granted for tree removal to allow a crossing place, Council will recover the cost of tree removal, planting and establishment of a suitable replacement tree from the applicant.
Stormwater pipe (connection to kerb)

Council may approve the installation of stormwater pipes subject to the following conditions:

1. Stormwater will not be concentrated to discharge from the adjoining property across the surface of a verge, footpath or Crossing place.

2. The installation of a stormwater pipe will meet the minimum requirements set out in Councils internal procedures. This document will be maintained to current standards by the relevant employees.

3. It will be the responsibility of the owner of the adjoining land to arrange for the removal of any redundant stormwater pipes and accept all associated costs.

4. Installation or maintenance of underground services beneath established trees will utilise work methods, which minimise root impacts.

Underground electrical services

Council will approve the installation of underground electrical services subject to the following conditions:

1. All new electrical services (from main supply to private property) are to be constructed underground. This will assist to improve the visual aesthetics of the City and enhance the development of tree growth over areas that previously may have been restricted due to the presence of overhead telecommunication lines.

2. The electrical service will be installed in accordance with relevant engineering and electrical standards, including AS/NZS 3000:2007.

3. Installation or maintenance of underground services beneath established trees will utilise work methods, which minimise root impacts.

Permits for Type 3 and 4 alterations or encroachments

The following conditions apply to permits for Type 3 and 4 Alterations or Encroachments (in addition to the conditions set out in the General heading):

- Pursuant to section 221 of the Act, Council may grant to any person a permit to erect, change, alter, remove or install a structure (including pipes, wires, cables, fixtures, fittings and other objects) in, on, across, under or over a road or public street within its area.

  Note: A permit under section 222 cannot be granted for a period exceeding five (5) years.

- A permit issued in accordance with section 222 can require that the holder of the permit pay an annual fee and can include such other conditions as the Council thinks fit.

- Approval will be sought from the DPTI prior to Council issuing any approval for a licence on a main road under the authority of DPTI under these classifications. Prior to any approval being granted Council will consider and consult where necessary.
with any relevant authorities relating to the delivery of services including water, gas, electricity or telecommunication.

- Standard conditions must include at least the following:
  1. Appropriate indemnity and insurance impositions to protect the interests of Council
  2. If the fee is not paid or the conditions not met, Council will have the right to cancel the permit
  3. Removal of the structure at the applicants cost at the end of the term
  4. Consideration to whether the structure will:
     - Unduly obstruct the use of the road
     - Unduly interfere with the construction of the road
     - Have an adverse affect on road safety

        and this must be evidenced in the appropriate approval documentation.

**Fees**

Fees will be charged according to the following table:

<table>
<thead>
<tr>
<th>Type of Alteration or Encroachment</th>
<th>Applicable Annual Licence Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type 1</td>
<td>No application fee, or $1 (if demanded)</td>
</tr>
<tr>
<td>Type 2</td>
<td>Application fee in accordance with Council's Fees and Charges Register</td>
</tr>
<tr>
<td>Type 3</td>
<td>Application fee for section 221 approval - Based on a valuation for the licensed land subject to a minimum amount as set out in Council's Fees and Charges Register. Annual renewal fee is equal to the application fee for any continuing use or section 222 annual fee.</td>
</tr>
<tr>
<td>Type 4</td>
<td>Application fee for section 221 approval - Based on a valuation for the licensed land subject to a minimum amount as set out in Council's Fees and Charges Register. Annual renewal fee is equal to the application fee for any continuing use or section 222 annual fee.</td>
</tr>
</tbody>
</table>

**Records management**

All applications, approvals (with conditions) and refusals are required to be in writing and appropriately recorded in Council’s records management system in accordance with Council’s Records Management Policy and procedures.

All approvals are to be recorded in Council’s property management system and reported on all property searches required under the *Land and Business (Sale and Conveyancing) Act 1994* in order for the Alteration or Encroachment and approval to be brought to the attention of any potential purchaser.
Policy implementation

This Policy will be implemented by the Chief Executive Officer or relevant portfolio director and managed in accordance with Council’s scheme of delegations (refer to Policy Delegation No. 72).

Accessibility

This Policy and Council’s Fees and Charges register are available on Council’s website: www.teatreegully.sa.gov.au

Hard copies can be provided in accordance with Council’s Fees and Charges Register at Council's Civic Centre at 571 Montague Road, Modbury SA 5092.
SMOKE FREE ZONE POLICY

Responsible Manager: Mike Burke, Manager Buildings Assets & Environment

This policy is to be first discussed at the Governance and Policy Committee meeting, as it is due for its three year review.

RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

That after consideration, discussion and some minor variations by the Governance and Policy Committee on 04 May 2016 the policy entitled “Smoke Free Zone Policy” be adopted and the former policy entitled “Smoke Free Zone Policy” be revoked.

Or

That after consideration, discussion and some minor variations by the Governance and Policy Committee on 04 May 2016 and given there are no significant changes to the policy entitled “Smoke Free Zone Policy”, it be adopted and the former policy entitled “Smoke Free Zone Policy” be revoked.

Or

That after some discussion by the Governance and Policy Committee on 04 May 2016 recommends that the policy entitled “Smoke Free Zone Policy” be returned to the “Governance and Policy Committee” for consideration.
<table>
<thead>
<tr>
<th>Page No.</th>
<th>Heading</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Legislation</td>
<td>Section 46 has been amended in regards to the definition of where the Act legislates against smoking</td>
</tr>
<tr>
<td>2</td>
<td>Legislation</td>
<td>By-law no 3 has changed from paragraph 2.32 to paragraph 5.6 and amends the wording around what constitutes Local Government land</td>
</tr>
<tr>
<td>2</td>
<td>Definitions</td>
<td>Changes the word Pub to Hotels and includes a definition of a Public Place</td>
</tr>
<tr>
<td>3</td>
<td>Policy</td>
<td>Change reference to By-law No 3 Addition to the definition of public outdoor dining areas</td>
</tr>
</tbody>
</table>

### Changes during or after GPC Meeting for Council Meeting [date]


### Supporting Information


### Attachments

1. Smoke Free Zone Policy - Reviewed version - April 2016.................................61
Smoke Free Zone Policy

<table>
<thead>
<tr>
<th>Record Number</th>
<th>D16/10942</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible Manager</td>
<td>Manager Buildings Assets &amp; Environment</td>
</tr>
</tbody>
</table>
| Other Key Internal Stakeholders | Director Assets and Environment  
Manager Recreation and Leisure Services |
| Last reviewed       |           |
| Adoption reference  |           |
| Resolution number   |           |
| Previous review dates | 18/05/13, 19/01/10, 30/05/06 |
| Reference to Strategic Plan | Leadership excellence |
| Legal requirement   | NA        |
| Due Date of next review | 2019    |
Purpose

The purpose of this policy is to support Council’s commitment to a smoke free workplace and to protect its employees from the dangers of passive smoking while at their place of employment.

The existence of this policy will also protect all users of Council facilities and any other persons not directly employed by Council from the potential dangers of exposure to tobacco smoke whilst on Council managed property.

Legislative framework and other references

There is no legislative requirement for Council to have a policy relating to this area.

The following legislation applies to this policy:

**Work Health and Safety Act 2012**

Under this Act, Council has a responsibility to ensure, as far as reasonably practicable, the health and safety of workers, volunteers and visitors in the workplace.

**Tobacco Products Regulation Act 1997**

Section 46 of this Act legislates against smoking in an enclosed Public Place, workplace or shared area.

By-law No. 3 - Local Government Land

Paragraph 5.4 of Council’s By-law No.3 - Local Government Land states that a person must not, without permission:

- Smoke tobacco or any other substance in any building or part of any building or on any local government land which the Council has resolved this subparagraph will apply.

Other references

Council’s documents including:

- Fees and Charges Register
- Non Smoking in the Workplace Principle and Guideline

Definitions

For the purposes of this Policy the following definitions apply:

Outdoor Public Dining Area - An outdoor dining area is an enclosed public area where tables or tables and chairs are provided for the purpose of dining in the area. This includes for example, outdoor dining areas at hotels, clubs, restaurants, cafes and temporary events.

Public Place - means an area or place that the public, or a section of the public, is entitled to use or that is open to, or used by, the public or a section of the public (whether access is unrestricted or subject to payment of money, membership of a body or otherwise)
Policy

Council regards smoking as a health hazard for both smokers and non-smokers. The Tobacco Products Act 1997 makes it an offence to smoke in any enclosed Public Place, workplace or shared area. This means smoking is banned in all Council buildings. Council may further control smoking on Local Government Land by applying paragraph 5.6 of Council By-Law No. 3 – Local Government Land and resolving certain areas to be non-smoking areas. Consistent with this provision:

- Council supports and promotes a smoking ban in all Council managed buildings to the extent that a minimum Smoke Free Zone close to any external doorway, air conditioning duct intake and any servery area located on any Council building will be maintained. The specific Smoke Free Zone for each building will be clearly signed.

- Council’s swimming centre will be a smoke free zone.

In support of the above principles:

- Council will install and maintain fixed ashtrays and signage at the edge of the exclusion zones for the disposal of cigarette butts.

- Smoking is not permitted in Council vehicles.

Procedures have been established to ensure that the risk to Council being legally responsible under Section 49(3) of the Tobacco Products Act 1997 is minimised.

Failure to comply with the by-law is an offence where a financial penalty may apply via an expiation notice.

Smoke free Outdoor Public Dining Areas

Changes under the Tobacco Products Act 1997 mean that from 1 July 2016, smoking is not permitted in public outdoor dining areas at any time that food is being offered for purchase.

Council leases some of its facilities to sporting clubs and community groups whereby the lessee is responsible for the day to day operational management and maintenance of the building. Therefore, lessees that provide ‘outdoor dining areas’ will be required to comply with changes to the legislation.

Refer to Fact Sheet for ‘Smoke Free outdoor dining areas’ provided from SA Health www.sahealth.sa.gov.au/smokefree

Policy implementation

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

This Policy and Council’s Fees and Charges register are available on Council’s website:
www.tenrengully.sa.gov.au

Hard copies can be provided in accordance with Council’s Fees and Charges Register at
Council’s Civic Centre at 571 Montague Road, Modbury SA 5092.
PETITION MANAGEMENT POLICY

Responsible Manager: Ilona Cooper, Manager Governance and Policy

This policy is to be first discussed at the Governance and Policy Committee meeting, as it is due for its three year review.

RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

That after consideration, discussion and some minor variations by the Governance and Policy Committee on 04 May 2016 the policy entitled “Petition Management Policy” be adopted and the former policy entitled “Petition Management Policy” be revoked.

Or

That after consideration, discussion and some minor variations by the Governance and Policy Committee on 04 May 2016 and given there are no significant changes to the policy entitled “Petition Management Policy”, it be adopted and the former policy entitled “Petition Management Policy” be revoked.

Or

That after some discussion by the Governance and Policy Committee on 04 May 2016 recommends that the policy entitled “Petition Management Policy” be returned to the “Governance and Policy Committee” for consideration.
### Summary of changes

<table>
<thead>
<tr>
<th>Page No.</th>
<th>Heading</th>
<th>Comments</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>To discuss further aligning the Policy to Local Government (Procedures at Meetings) Regulations 2013, that acknowledges receipt of electronic petitions as well as further clarifying the process for managing petitions.</td>
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### Changes during or after GPC Meeting for Council Meeting [date]

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### Supporting Information

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### Attachments


67
### Petition Management Policy

<table>
<thead>
<tr>
<th>Record Number</th>
<th>D16/10930</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible Manager</td>
<td>Manager Governance and Policy</td>
</tr>
<tr>
<td>Other Key Internal Stakeholders</td>
<td></td>
</tr>
<tr>
<td>Last reviewed</td>
<td></td>
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<tr>
<td>Adoption reference</td>
<td></td>
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<tr>
<td>Resolution number</td>
<td></td>
</tr>
<tr>
<td>Previous review dates</td>
<td>09/04/2013, 09/06/09, 23/01/07</td>
</tr>
<tr>
<td>Reference to Strategic Plan</td>
<td>Leadership Excellence</td>
</tr>
<tr>
<td>Legal requirement</td>
<td>NA</td>
</tr>
<tr>
<td>Due Date of next review</td>
<td>2019</td>
</tr>
</tbody>
</table>

The electronic version of this document is the controlled version. Printed copies are considered uncontrolled. Before using a printed copy, verify that it is the current version.
Purpose

The purpose of this policy is to state Council’s position in regard to the submission of petitions to Council and the display of petitions in Council facilities by private individuals or groups. The existence of this policy will assist to ensure that petitions are managed in a fair and consistent manner.

Legislative framework and other references

There is no legislative requirement for Council to have a policy relating to this area.

The following legislation applies to this policy:

Local Government (Procedures at Meetings) Regulations 2013

Regulation 10 states that a petition to Council must:

- Be legibly written or typed or printed
- Clearly set out the request or submission of the petitioners
- Include the name and address of each person who signed or endorsed the petition
- Be addressed to Council and delivered to the principal office of Council.

Such petitions must be placed on the agenda for the next ordinary meeting of Council or the relevant Council Committee.

Other references

Council’s documents including:

- Fees and Charges Register
- Privacy Policy

Definitions

For the purposes of this policy the following definition applies.

CEO - refers to the Chief Executive Officer (including their delegate) of the City of Tea Tree Gully, or an Acting Chief Executive Officer of the City of Tea Tree Gully (including their delegate)

Clear days – This does not include the day of the meeting or the day the documents are sent out i.e. the days in between.

Contact Person - the person submitting a petition or a person nominated as the contact person in relation to a petition. In the absence of these persons, the contact person is the person whose name is first listed on a petition.

Regulations - Local Government (Procedures at Meetings) Regulation 2013

Policy

This policy has been developed with consideration of Council’s Privacy Policy.

Council recognises that petitions are an effective means for individuals and groups to express their views and to seek support of those views.
For all petitions received by Council, Council will communicate only with the Contact Person. As a matter of course, Council will not respond to all petitioners as this is considered to be the responsibility of the Contact Person.

A petition that is tabled during a Public Forum, Deputation or by an Elected Member during a Council or Committee meeting, the petition and the information contained in the document becomes a public document and can be requested at any time by any member of the public. That is, the personal details that are provided as part of the petition will be freely accessible to the public. Council advises that the Contact Person needs to consider the best method of submitting a petition to Council.

**Petitions to Council or a Council Committee**

Council will manage petitions in accordance with regulation 10 of the Regulations, which provides for the submission of petitions to Council or a Council Committee by private individuals or groups.

Petitions may be hand delivered, mailed, faxed or emailed to Council. In order to comply with the Regulations, petitions will only be accepted if received by any of these means at Council’s Civic Centre located at 571 Montague Road, Modbury.

Petitions do not need to be in any prescribed form. As a guide to best practice, Council will only accept petitions that meet the following criteria:

- Petitions should be typed in a legible font
- Petitions should be in relation to a matter that Council or the relevant Council Committee has control over or is in a position to make submission to other levels of government
- Each petition should clearly include the name, signature and address of all persons signing or endorsing the petition
- Telephone numbers are not necessary on petitions and it is suggested that they not be included for privacy reasons
- Petition statement (the expected action to be taken by Council e.g. we would like Council to construct a footpath) must be clearly shown at the top of every page to ensure that each signatory is fully aware of what the petition is outlining.

Petitions that contain certain material will not be accepted and in this event the Contact Person will be provided with an explanation of why this has occurred. Petitions will not be considered if they:

- Contain abusive language
- Contain remarks that could be considered defamatory towards a person or entity
- Are not clear with their intent
- Are not legible
- Seek to encourage an unlawful activity
- Are related to a Development Application and the petition has not met the requirements of the Development Regulations 2008

The Contact Person will receive a written acknowledgment stating when the petition will be received by Council or relevant Council Committee. A report will be prepared for the next available Council or relevant Council Committee meeting detailing the following:

- A summary of the petition
- The number of signatures (where a petitioner has been included more than once, only the first entry will be included)
• Any comment on particular trends of the signatories (e.g., residents that live in the City compared to those that don’t), residents that live on a particular road etc.
• The name of the manager coordinating a response to the petition
• Any supporting documentation to assist Council or Committee members in assessing the petition such as site plans, photos etc.
• All personal details of the petitioners will be excluded from the report in line with Council’s Privacy Policy.

Any petitioners may address Council or a Council Committee regarding a petition via the public forum or deputation process. Requests to address the public forum of a meeting are made by completing a Register of Persons Wishing to Address Council document, which is available near the entrance to the Public Gallery immediately prior to the commencement of the meeting. Requests for a deputation must be made in writing and addressed to the CEO at least five (5) Clear days prior to the relevant meeting. Such requests will be considered by the Mayor or Presiding Member. Applicants will be advised in writing of the acceptance or rejection of their request for a deputation. Deputations will be managed in accordance with regulation 10 of the Regulations.

Elected Members are entitled to submit a Notice of Motion to Council in regards to any petition but such a motion must be lawful and consistent with Council policies and the Regulations.

Elected Members will be kept informed of how petitions are being addressed by the item being included in the Status of Resolutions process at each relevant meeting.

Display of Petitions in Council Facilities

Requests for displaying petitions in Council facilities must be approved by the Mayor and CEO. As a general principle, such requests will be supported provided the petition:

• Does not contain abusive language
• Does not contain remarks that could be considered defamatory towards a person or entity
• Has a clear intent
• Is legible
• Does not seek to encourage any unlawful activity
• Is not contradictory to any Council plan or policy
• Includes a petition statement at the top of every page to ensure that each signatory is fully aware of what the petition is outlining.

Where the petition relates to a Council policy, function or activity, the Mayor or CEO may refer the Contact Person to the relevant manager to determine if the matter can be resolved without needing to progress the petition further.

The applicant will be advised on the decision in relation to the display of the petition, and in the instance that the request is refused the Contact Person will be provided with an explanation for the refusal. Elected Members will also be advised of any petition that has been refused to be displayed in Council facilities.

Any petition that has been approved for display in a Council facility must state a reasonable close-off date and the Contact Person is to remove the petition at this time. Petitions that have not been removed within seven days of the close-off date will be disposed of by the relevant Council officer.
Policy implementation

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

A procedure will be maintained to ensure that Council has an efficient and effective system internally to manage petitions once they are received by Council.

Accessibility

This Policy and Council’s Fees and Charges register are available on Council’s website: www.treearequility.sa.gov.au

Hard copies can be provided in accordance with Council’s Fees and Charges Register at Council’s Civic Centre at 571 Montague Road, Modbury SA 5092.
This policy is to be first discussed at the Governance and Policy Committee meeting in line with legislative requirements where a Code of Practice in place for Council to establish its own meeting procedures, must be reviewed once every financial year.

Any allowable variations to the Local Government (Procedures at Meetings) Regulations 2013 under this Code of Practice, must be supported by at least two thirds of the members of Council entitled to vote on the resolution.

RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

That after consideration, discussion and some minor variations by the Governance and Policy Committee on 04 May 2016 the policy entitled “Code of Practice for Council and Committee Meeting Procedures” be adopted and the former policy entitled “Code of Practice for Council and Committee Meeting Procedures” be revoked.

Or

That after some discussion by the Governance and Policy Committee on 04 May 2016 recommends that the policy entitled “Code of Practice for Council and Committee Meeting Procedures” be returned to the “Governance and Policy Committee” for consideration.
Summary of changes

<table>
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<td></td>
<td>To discuss whether any recent changes in legislation need to be incorporated into the Code of Practice for Council and Committee Meeting Procedures</td>
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</table>

Changes during or after GPC Meeting for Council Meeting [date]

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Supporting Information

Attachments

1. Code of Practice for Council and Committee Meeting Procedures - Reviewed version - April 2016 ................................................................................................................................................. 75
Code of Practice for Council and Council Committee Meeting Procedures

Record Number D15/74463

Responsible Manager Manager Governance and Policy

Other Key Internal Stakeholders

Last reviewed

Adoption reference

Resolution number

Previous review dates 25/11/14, 11/02/14, 11/12/12, 11/10/11, 10/05/11, 08/02/11, 23/11/10, 08/08/10, 13/04/10, 19/01/10, 09/06/09, 10/02/09, 16/12/08, 12/08/08, 13/02/07, 11/10/05, 12/10/04, 25/02/03, 13/03/01

Reference to Strategic Plan Leadership excellence

To be reviewed within 12 months after the conclusion of each Council election.

Subject to the requirements of the Local Government Act 1999, and any allowable variations to the provisions of Part 2 of the Local Government (Procedures at Meetings) Regulations 2013, a Council may, by a resolution supported by at least two thirds of the members of Council entitled to vote on the resolution, determine that a code of practice prepared or adopted by the Council that establishes its own procedures for a relevant matter or matters will apply in substitution for the relevant provision in the Regulations.

Variations made by Council to the Regulations must be reviewed once every financial year.

Legal requirement

Due Date of next review 2016-2017 financial year
Minutes .................................................................................................................. 20
Appointment to role ............................................................................................ 20
Meeting Etiquette ................................................................................................. 20
Visual or Audio Recordings ................................................................................. 21
Family and Worker Friendly Meeting Times ...................................................... 21
Policy implementation ......................................................................................... 21
Accessibility ......................................................................................................... 21
Meeting Agenda Template .................................................................................. 22
Special Meeting Template .................................................................................. 25
Notice of Motion – Manner and Form ................................................................. 27
Question on Notice – Manner and Form ............................................................ 29
Voting Matters .................................................................................................... 30
Purpose

The purpose of this Code is to establish a consistent approach and provide clear expectations to Elected Members, Council employees, residents, ratepayers and guests for the order of business (Agenda style and format), procedures and etiquette at Council and Council Committee meetings. This Code will be used to assist in achieving Council’s objective to ensure governance systems are open and transparent to all stakeholders.

The Code complements and is applied in conjunction with the prescribed procedures set out in the Local Government Act 1999 and the Local Government (Procedure at Meetings) Regulations 2013 except where Council has, in accordance with Regulation 6, chose to vary the application of Part 2 of the Regulations.

This Code applies to all ordinary and special meetings of Council and Council Committees at the City of Tea Tree Gully. Council’s Development Assessment Panel (CDAP) is governed by the Development Act 1993 and therefore has its own meeting procedures.

Legislative framework and other references

This Code reflects the requirement and intentions of the Local Government Act 1999 and Local Government (Procedures at Meetings) Regulations 2013.

The following legislation applies to this Code:

Local Government Act 1999

Each meeting will be held in accordance with the provisions of Chapter 6 of this Act.

Local Government (Procedure at Meetings) Regulations 2013

Part 2 of the Regulations applies to the meetings of councils and key (section 41) committees.

Regulation 6 allows councils to vary some regulations to suit their needs. If there are variations, then Council should review the operation of this Code at least once in every financial year.

Council is required to have a Code of Practice under these Regulations if it chooses to implement allowable variations under Part 2 of the Regulations. This Code satisfies that requirement.

Subject to the requirements of the Local Government Act 1999, and any allowable variations to the provisions of Part 2 of the Local Government (Procedures at Meetings) Regulations 2013, a Council may, by a resolution supported by at least two thirds of the members of Council entitled to vote on the resolution, determine that a Code of Practice prepared or adopted by the Council that establishes its own procedures for a relevant matter or matters will apply in substitution for the relevant provision in the Regulations. This vote is to be recorded separately in detail in the Council minutes. Where an Elected Member is not entitled to vote (for example, because of a conflict of interest) the member will not be included in the calculation for determining two thirds of the vote.
Other references

Council’s documents including:

- Code of Practice – Access to Council and Council Committee Meeting Documents
- Council and Council Committee Structure – Terms of Reference and Membership
- Deputation Guidelines
- Fees and Charges Register
- Public Forum Guidelines
- Petition Management Policy

External documents including:

- Local Government Association of South Australia Council Meeting Procedures Handbook
- Minute Takers Handbook for Local Government 2014

Definitions

For the purpose of this Code the following definitions apply:


**Agenda** - As defined in the Local Government Act 1999 means a list of items of business to be considered at a meeting.

**CEO** - Refers to the Chief Executive Officer (including their delegate) of the City of Tea Tree Gully.

**Code** - Code of Practice for Council and Council Committee Meeting Procedures.

**Leave of the Meeting** - The approval is determined by a majority show of hands of the meeting by members of Council or Council Committee.

**Minutes** - A written record of the proceedings at every meeting of the Council or a Council Committee.

**Presiding Member** - the person nominated to take responsibility for presiding over meetings of the Council or Council Committee. The Mayor will assume responsibility as the Presiding Member of Council meetings when in attendance.

**Regulations** - Local Government (Procedures at Meetings) Regulations 2013

**SPDPC** - Strategic Planning and Development Policy Committee

**Written Notice** - A notice given in accordance with the requirements prescribed within regulation 13 of the Regulations

Code

Introduction

Council and Council Committees follow the rules and procedures outlined in the:
Item 17.4

Governance and Policy Committee Meeting - 4 May 2016

- Local Government Act 1999 (Chapter 6)
- Local Government (Procedure at Meetings) Regulations 2013.

The Regulations allow a Council to add or vary certain provisions by adopting a Code of Practice for its Council and Council Committee meetings. In establishing the Code, Council has adopted the Guiding Principles outlined in the Regulations.

Guiding Principles (Regulation 5)

<table>
<thead>
<tr>
<th>Legislation</th>
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<tbody>
<tr>
<td>The following principles (the Guiding Principles) should be applied with respect to the procedures to be observed at a meeting of a Council or Council Committee:</td>
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<tr>
<td>- Being fair and contributing to open, transparent and informed decision making</td>
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<td>- Encouraging appropriate community participation</td>
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<tr>
<td>- Reflecting levels of formality appropriate to the nature and scope of responsibilities exercised at the meetings</td>
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<tr>
<td>- Ensuring that the community and decision makers are confident in the deliberations undertaken.</td>
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</table>

Order of Business

Council will have a standard template Agenda for all Council or Council Committee meetings, allowing for variations for specific Council Committee needs (in accordance with the Council and Council Committee Structure: Terms of Reference and Membership). These templates will be subject to compliance with the Regulations and this Code. The template agenda for ordinary and special meetings are provided in Attachment 1 and 2.

A Notice and Agenda for Council and Council Committees will be placed on public display on the Civic Centre Notice Board and reports will be available for public inspection from the front counter at the Civic Centre and accessible from Council’s website: www.teatregully.sa.gov.au.

The order of agenda items may be varied by the Presiding Member, or by resolution of the Council or Council Committee, to suit the needs of the public, employees, consultants, individual members or any person making a deputation, presentation or participation in the public forum.

Council welcomes and encourages the attendance of the public at all meetings, unless a specific confidential order applies, and notes this Code is to be read in conjunction with Council’s Code of Practice - Access to Council and Council Committee Meetings and Documents. The Council and Council Committee Structure: Terms of Reference and Membership may also include variations to meeting procedures in order to meet needs of specific Committees.
Procedures of Agenda Items at a Meeting

Welcome

All present will stand as the Presiding Member takes his or her position in the Chambers. This represents a sign of respect for the position of Mayor and in recognition of the strong history of the City. The requirement to stand only applies to Council meetings.

Opening Prayer (Council only)

To be read by the Presiding Member. The form of words for the Council prayer will be:

“Almighty God we humbly ask you for your blessing upon this Council Meeting, direct and prosper our deliberations to the advancement of your glory and the welfare of the people of our City and of Australia. Amen.”

Acknowledgement of Country Statement

To be read by the Presiding Member, or at their discretion another Elected Member, at each Council and Council Committee meeting (where there are members of the public present). This statement is to be recorded in the Agenda and if read publicly, a record of the reading to be included in the minutes.

“The City of Tea Tree Gully recognises this City's considerable natural and cultural heritage, including thousands of years of Traditional Ownership by the Kaurna people and the more recent contributions from all who live here. We build on this heritage today by respecting and listening to each other, being receptive to new ideas and acting wisely for the current and future well-being of our community”.

Present

A record of Elected Members present is maintained (identifying the time of arrival for any Elected Members not present at the commencement of the meeting). Names will be recorded by listing the Mayor first followed by the names of the Elected Members in the order as the Elected Members sit around the Council Chamber or meeting room. First name initials with surnames in full will be used as is recorded in each Member’s annual register of interests. Accordingly, names will be amended to take into account any official change of name by Elected Members.

Apologies

A record is taken of those Elected Members who have previously advised that they would not be present at the commencement of the meeting.

Leave of Absence (Council only)

A motion must be sought by the Presiding Member for a mover and seconder to record any previously requested Leave of Absence by Elected Members.

If an Elected Member requires leave of absence the following guidelines will be followed:

- If an Elected Member knows in advance that they will be away for a Council meeting/s they will advise the CEO or nominee in writing (e.g. by email)
- The Elected Member’s name will be listed as an apology under the agenda item “Leave of Absence” and the relevant period
- The CEO (or their nominee) will advise the Presiding Member of any requests for leave of absence and apologies for non-attendance at Council Meeting's prior to the commencement of the meeting.
- At each meeting, Council will formally consider and vote on leave of absence for those Elected Members who have requested it.

**Officers in Attendance, Public Gallery and Media Present**

A record is to be taken of those employees present at the meeting, their name and position and these details are to be recorded in the minutes.

A record is to be taken of the number of members of the public and media organisations present at the meeting. This does not form any part of the formal Agenda but is recorded in the minutes.

**Confirmation of Minutes of the Previous Meeting**

<table>
<thead>
<tr>
<th>Legislation - Regulation 8</th>
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<tbody>
<tr>
<td>(1) The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, a subsequent meeting.</td>
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<tr>
<td>(2) No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.</td>
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<tr>
<td>(3) On the confirmation of the minutes, the presiding member will –</td>
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<td>(a) Initial each page of the minutes, which pages are to be consecutively numbered; and</td>
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<tr>
<td>(b) Place his or her signature and the date of confirmation at the foot of the last page of the minutes.</td>
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</table>

**Mayor’s Report (Council Only)**

The Mayor may elect to present a report of his or her activities since the previous Council meeting. The Mayor’s report will be included in full as an attachment to the Council Minutes.

**Public Forum**

A session will be held to allow residents, ratepayers or guests of the City to speak to the meeting on topics of Council business as part of Council’s desire to be open, transparent and accessible to its community. This session will be restricted to a maximum of 10 minutes in total (unless otherwise resolved by the meeting or Leave of the Meeting is granted) and each person will be restricted to a maximum of 2 minutes. Each person allowed to speak must address the Presiding Member and state their name and address and the subject upon which they wish to address the meeting. The Presiding Member has absolute discretion as to allow or refuse a person to continue. A person may not be allowed to speak about a matter if they have already made a previous submission in relation to the same matter, particularly where the matter has been to the community for consultation or part of a community engagement process.

Public Forum Guidelines have been developed to identify how this process will be managed. The process may be varied to suit specific circumstances at the discretion of the Presiding Member.

The Minutes of the meeting will include a record of the name of the person addressing the meeting and the suburb of their address together with a brief description on the nature of the matter being discussed.
Deputations

Legislation - Regulations 11

(1) A person or persons wishing to appear as a deputation at a meeting must deliver (to the principal office of the council) a written request to the council.

(2) The chief executive officer must transmit a request received under subregulation (1) to the presiding member.

(3) The presiding member may refuse to allow the deputation to appear at a meeting.

(4) The chief executive officer must take reasonable steps to ensure that the person or persons who requested a deputation are informed of the outcome of the request.

(5) If the presiding member refuses to allow a deputation to appear at a meeting, the presiding member must report the decision to the next meeting of the council or council committee (as the case may be).

(6) The council or council committee may resolve to allow a deputation to appear despite a contrary ruling by the presiding member.

(7) A council may refer the hearing of a deputation to a council committee.

Deputation Guidelines have been developed to identify how this process will be managed, including a preference that any deputation relating to a planned management report should occur at the same meeting as the management report is presented to the Council or the Committee. Any person making a deputation to the meeting must seek approval from the Presiding Member before giving handouts to Elected Members.

The Minutes of the meeting will include a record of the name of the individual making a deputation, suburb of their address together with a brief description on the nature of the matter being discussed.

Presentations

Employees, consultants, or other government agencies may make presentations to a meeting on matters relating to the Council at the discretion of the CEO. The meeting may request specific presentations from employees (with reasonable notice). A general limit of one presentation per Council meeting applies unless other priorities are identified.

The Minutes of the meeting will include a record of the name of the employee or consultant making the presentation, together with a brief description on the nature of the presentation.

Petitions

Legislation - Regulations 10
Subregulation (2) – not varied by Council

(1) A petition to the council must –
   (a) be legibly written or typed or printed; and
   (b) clearly set out the request or submission of the petitioners; and
   (c) include the name and address of each person who signed or endorsed the petition; and
(d) Be addressed to the council and delivered to the principal office of the council.

(2) If a petition is received under subregulation (1), the chief executive officer must ensure that the petition or, if the council has so determined as a policy of the council, a statement as to the nature of the request or submission and the number of signatures or the number of persons endorsing the petition, is placed on the agenda for the next ordinary meeting of the council or, if so provided by a policy of the council, a committee of the council.

(3) Subregulation (2) may be varied at the discretion of the council pursuant to regulation 6.

Any petition lodged with Council in accordance with Council’s Petition Management Policy will be reported to the next available Council or Council Committee. The petitions will not be copied and circulated. A report containing the substance of the petition along with the number of signatures on each petition will be provided in the Agenda. A copy of each petition will be available for Elected Members to inspect at the relevant meeting and prior to the meeting.

Declaration of Interests

Elected Members will be invited to nominate any item on the Agenda where they are of the view that they have an interest or conflict of interest in order for the Presiding Member to allow the Member the appropriate opportunity to identify the details of the interest or conflict of interest immediately prior to any discussion occurring on the relevant subject.

The Minutes will record a reference to the agenda item to which the interest relates. Details on the specific nature of the interest or conflict of interest will be recorded in the Minutes as part of consideration of the agenda itself.

Adjourned Business

Legislation - Regulations 19
Regulation 19 – not varied by Council

(2) If a formal motion for a substantive motion to be adjourned is carried –
(a) The adjournment may either be to a later hour of the same day, to another day, or to another place; and
(b) The debate will, on resumption, continue from the point at which it was adjourned.

(3) If debate is interrupted for want of a quorum and the meeting is then adjourned, the debate will, on resumption, continue from the point at which it was interrupted.

(4) Business adjourned from a previous meeting must be dealt with before any new business at a subsequent meeting.

(5) The provisions of this regulation may be varied at the discretion of the council pursuant to regulation 6.
Motions Lying on the Table

Any motions currently lying on the table will be listed on the next meeting agenda as a reminder to Elected Members and employees of their status. A copy of any motion lying on the table is to be included in the agenda papers.

Legislation - Regulations 12(19) and (20)

12...

(19) Any question that lies on the table as a result of a successful formal motion under subregulation (14)(c) lapses at the next general election.

(20) The chief executive office must report on each question that lapses under subregulation (19) to council at the first ordinary meeting of the council after the general election.

Committee Reports

Any committee recommendations since the last Council meeting will be presented to Council at this time for consideration.

In the case of a Council Committee, reports of any Sub Committees will be considered at this point in the meeting.

If the Terms of Reference of a Committee require the Committee to report to Council on a regular basis, the report should be provided in writing by the Presiding Member of the Council Committee prior to the Agenda being finalised. This may be supported by a representative of the Committee at this stage in the meeting, subject to prior notification and in accordance with the timelines for Notice of Motions.

Withdrawal of Management Reports for Discussion (starring of items)

Management reports may be resolved "en bloc" with the exception of reports that have been "stared" in the agenda.

The Agenda may contain "stared" management reports. These are reports that staff recommend for consideration individually rather than be approved "en bloc". During the meeting, Elected Members will also have the opportunity to identify management reports that they wish to consider individually by way of starrion those reports.

Consideration of Unstared Items En Bloc

En bloc reports are also referred to as "unstarred items" and will not generally be the subject of individual debate. The "en bloc" option should not be used:

- For high level Governance matters or where the vote is required to be recorded; e.g. by-laws, delegations, or some specific policies
- Where there is a disclosure of an interest or conflict of interest by a meeting member
- Where matters are deemed to be contentious or there is likely to be any amendments
- If the decision is likely to have a direct impact on a third party and is the final step in the process; e.g. entering into a lease, licence or disposal of an asset

In the event that the "en bloc" option is used then the above considerations will be given at the discretion of the Presiding Member.
Items that are resolved ‘en bloc’ will result in the recommendation contained within the Management report being endorsed.

Whenever a meeting passes matters “en bloc” a separate resolution will be recorded in the meeting stating “That having read and considered the following matters the Council resolves them “en bloc” in accordance with the recommendations before the meeting and that each separate subject be allocated a specific resolution number”, identifying the mover and the seconder and the fact that if successful it was carried or unanimously carried.

“En Bloc” matters, once passed will be allocated a separate resolution number by using a sub numbering system (e.g. 57.1) to assist in locating and identifying them in the future.

Management Reports

Management reports will be listed on the agenda in accordance with the management structure of Council. This listing will be varied as required to ensure consistent alignment with Council’s management structure at any point in time.

- Office of the Chief Executive Officer
- Assets and Environment
- Organisational Services and Excellence
- Community and Cultural Development

Notices of Motions

<table>
<thead>
<tr>
<th>Legislation – Regulation 12(1) to (4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>12...</td>
</tr>
<tr>
<td>(1) A member may bring forward any business in the form of a written notice of motion.</td>
</tr>
<tr>
<td>(2) The notice of motion must be given to the chief executive officer at least 5 clear days before the date of the meeting at which the motion is to be moved.</td>
</tr>
<tr>
<td>(3) A motion the effect of which, if carried, would be to revoke or amend a resolution passed since the last general election of the council must be brought by written notice of motion.</td>
</tr>
</tbody>
</table>
| (4) If a motion under subregulation (3) is lost, a motion to the same effect cannot be brought —  
  (a) until the expiration of 12 months; or  
  (b) until after the next general election, whichever is sooner. |

The Notice of Motion will be placed on the agenda in the manner and form detailed in Attachment 3. This form will be applied to new motions, as well as a motion to vary or rescind a previous council resolution.

As a matter of probity and governance best practice, the Presiding Member should not submit Notices of Motions at the meeting over which they preside.
Motions without Notice

<table>
<thead>
<tr>
<th>Legislation – Regulation 12(5) and (6)</th>
</tr>
</thead>
<tbody>
<tr>
<td>12...</td>
</tr>
<tr>
<td>(5) Subject to the Act and these regulations, a member may also bring forward any business by way of a motion without notice.</td>
</tr>
<tr>
<td>(6) The presiding member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion.</td>
</tr>
</tbody>
</table>

In order to assist Council in maintaining an open and transparent approach to governance these motions should be restricted to matters closely related to Agenda items, house-keeping issues or matters of extreme urgency. Elected Members are encouraged where possible to provide the proposed written motion to the Governance Officer prior to its consideration.

Questions on Notice

<table>
<thead>
<tr>
<th>Legislation – Regulation 9 (1), (2) and (6)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) A member may ask a question on notice by giving the chief executive officer written notice of the question at least 5 clear days before the date of the meeting at which the question is to be asked.</td>
</tr>
<tr>
<td>(2) If notice of a question is given under subregulation (1) –</td>
</tr>
<tr>
<td>(c) The chief executive officer must ensure that the question is placed on the agenda for the meeting at which the question is to be asked; and</td>
</tr>
<tr>
<td>(d) The question and the reply must be entered in the minutes of the relevant meeting.</td>
</tr>
<tr>
<td>...</td>
</tr>
<tr>
<td>(6) The presiding member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting and improper.</td>
</tr>
</tbody>
</table>

The CEO will develop a separate written procedure on how Elected Members and employees will comply with the requirements of the Act and Regulations.

The Question on Notice will be placed on the agenda in the manner and form detailed in Attachment 4. Questions on Notice will not be debated in the meeting.

Questions without Notice

<table>
<thead>
<tr>
<th>Legislation – Regulation 9(3) to (6)</th>
</tr>
</thead>
<tbody>
<tr>
<td>12...</td>
</tr>
<tr>
<td>(3) A member may ask a question without notice at a meeting.</td>
</tr>
<tr>
<td>(4) The presiding member may allow the reply to a question without notice to be given at the next meeting.</td>
</tr>
<tr>
<td>(5) A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve that an entry should be made.</td>
</tr>
<tr>
<td>(6) The presiding member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper.</td>
</tr>
</tbody>
</table>
**Council Delegate Reports and Activities: Council only**

Elected Members are invited to report any attendance at meetings and functions on behalf of Council where they have filled an official Council representative role or a role on behalf of the Mayor (as the nominated Council delegate). It is expected that these reports will include some specific information relating to recent meetings of the relevant body.

Elected Members will be given an opportunity at each Council meeting to speak for a maximum of up to two minutes, at the discretion of the Presiding Member, to report on any activity where they have attended such a function in their role as an Elected Member. This should be limited to the date and name of the function and a brief comment about the event itself. This session is not to be used for reporting on activities of representing individual ratepayers on operational matters. As this is not necessarily Council business it will not be recorded in the Minutes, which is in line with the requirements of the Regulations.

Throughout an Elected Member’s term on Council, each will attend numerous community functions either personally or simply as part of their role in representing their community. In line with the Guiding Principles of the Regulations relating to openness and transparency it is important that this activity be appropriately recorded and recognised. Accordingly this information will be recorded by each member through a written submission (including email) to the CEO and/or his or her nominee. The information will be made available in the next Information Document. The CEO will maintain a standard format for reporting this information in summary form.

**Information Reports**

The Agenda and Minutes will record a list of those Information Reports that have been distributed to Elected Members since the previous meeting. This will serve as the official record that the reports have been distributed. Elected Members may ask questions or move motions in relation to the Information Reports.

**Status Report of Council or Council Committee Resolutions**

A summary of each resolution will be maintained and reported to each relevant meeting. At every meeting, Council or Council Committee will have the option to query outstanding items and note items.

At each meeting the members will pass a resolution similar to:

“That the (Council or Committee) notes the report entitled “Status Report of (Council or Committee) Resolutions” and dated (meeting date).”

This record will be used by Council and Management to ensure that Council or Council Committee decisions are enacted and Council and Management are informed of action(s) taken. The actions and notes will become part of the business papers for each meeting.
Other Business

Any late correspondence that needs to be circulated to Elected Members promptly may be recorded at this point in the meeting. This item is restricted to Council business considered to be of a minor house keeping nature or matters of extreme importance that are unable to be deferred to the next meeting. These items have not been advertised to the broader community and therefore it is considered to not be good governance practice. It is contrary to the Guiding Principles in the Regulations to have items that do not fit into the above criteria considered during this part of the meeting.

Section 90(2) Local Government Act 1999 Matters - Confidential Items

Any item that has been identified as potentially confidential may include a report from the CEO that identifies the reason why the report should be discussed with the exclusion of the public and should quote the relevant section of the Local Government Act for moving into “camera”.

Date of Next Meeting

This is to be recorded in the minutes as a to remind Elected Members of the scheduled date for the next meeting.

Closure

The time of closure of the meeting will be recorded.

Meeting Practices

Each meeting will follow the practices as detailed below:

- Where Council or a Council Committee has been meeting for two and a half hours a resolution will be invited by the Presiding Member for the meeting to adjourn for 10 minutes

- Meetings will conclude on or before 10.30pm unless there is a specific resolution adopted at the meeting to continue it beyond that time

Motions

<table>
<thead>
<tr>
<th>Legislation – Regulation 12(7) to (11) –</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subregulation (10)(c) – varied by Council</td>
</tr>
<tr>
<td>Subregulation (9), (10)(a) and (b) and (11) – not varied by Council</td>
</tr>
</tbody>
</table>

12...
(7) The Presiding member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the council or council committee (as the case may be).

(8) A motion will lapse if it is not seconded at the appropriate time.

(9) A member moving or seconding a motion will speak to the motion at the time of moving or seconding the motion.

(10) A member may only speak once to a motion except –
(a) to provide an explanation in regard to material part of his or her speech, but not so as to introduce any new matter; or
(b) with leave of the meeting; or
(c) as the mover in reply.

(11) A member who has spoken to a motion may not at a later stage of the debate move or second an amendment to the motion.

Council has varied 10(c) above as follows::
A Member may only speak as the mover in reply to a motion where another Elected Member has spoken against the motion.

All motions submitted by Elected Members will be in writing and it will be the responsibility of each mover of a motion or amendment that varies from a recommendation, to provide the draft motion or amendment to the CEO in writing to ensure that the minutes of each meeting are recorded accurately and efficiently.

It is preferable that a Committee Presiding Member not move any Motions.

All resolutions will be consecutively numbered throughout a Council term starting at 1 at the beginning of each term for both Council and Council Committee.

**Formal Motions**

**Legislation – Regulation 12(12) to (18)**

12...

(12) A member who has not spoken in the debate on a question may move a formal motion.

(13) A formal motion must be in the form of a motion set out in subregulation
(14) (and no other formal motion to a different effect will be recognised).

(14) If the formal motion is –
(a) that the meeting proceed to the next business, then the effect of the motion, if successful, is, in the case of an amendment, that the amendment lapses and the meeting proceeds with the consideration of the motion before the meeting without further reference to the amendment and, in the case of a motion, that the motion lapses and the meeting proceeds to the next item of business; or
(b) that the question be put, then the effect of the motion, if successful, is that the debate is terminated and the question put to the vote by the presiding member without further debate; or
(c) that the question lie on the table, then the effect of the motion, if successful, is that the meeting immediately moves to the next item of business and the question can then only be retrieved at a later time by resolution (and, if so retrieved, debate is then resumed at the point of interruption); or
(d) that the question be adjourned, then the effect of the motion, if successful, is that the question is disposed of for the time being but debate can be resumed at the later time (at the point of interruption); or
(e) that the meeting be adjourned, then the effect of the motion, if successful, is that the meeting is brought to an end immediately without consideration of further business.
(15) If seconded, a formal motion takes precedence and will be put by the presiding member without discussion unless the motion is for an adjournment (in which case discussion may occur (but only occur) on the details for resumption).

(16) A formal motion does not constitute an amendment to a substantive motion.

(17) If a formal motion is lost –
   (a) the meeting will be resumed at the point at which it was interrupted; and
   (b) if the formal motion was put during debate (and not at the end of debate) on a question, then a similar formal motion (ie a motion to the same effect) cannot be put until at least 1 member has spoken to the question.

(18) A formal motion for adjournment must include the reason for the adjournment and the details for resumption.

Amendments to motions

Legislation – Regulation 13(1) to (5)
Subregulation (1), (3), (4) and (5) - not varied by Council

(1) A member who has not spoken to a motion at an earlier stage of the debate may move or second an amendment to the motion.

(2) An amendment will lapse if it is not seconded at the appropriate time.

(3) A person who moves or seconds an amendment (and, if he or she chooses to do so, speaks to the amendment) will, in so doing, be taken to have spoken to the motion to which the amendment relates.

(4) If an amendment is lost, only 1 further amendment may be moved to the original motion to which the amendment relates.

(5) If an amendment is carried, only 1 further amendment may be moved to the original motion.

The following has been added to assist in the clarification of the Regulations:

- Any Elected Member who has spoken to the original motion cannot speak to any amendments.

- A second amendment can only be considered by the meeting once the first Amendment has been resolved.

- Any Elected Member who has not spoken previously to the original motion or the first amendment may move, second or speak to a second amendment.

- After any amendments have been resolved, other members who have not moved, seconded or spoken to the motion or amendments should be invited to speak to the motion (as may be amended) before the debate concludes.

- During the debate an Elected Member who has not moved, seconded or spoken previously to the motion or amendments may foreshadow an alternative motion should the motion (original or as amended) be defeated.
The debate on the matter is to be closed by the original mover of the original motion after all amendments have been voted upon and all speakers who wish to participate in the debate have been exhausted. There is no closing of the debate prior to voting on an amendment.

Variations to motions

Legislation – Regulation 14

(1) The mover of a motion or amendment may, with the consent of the seconder, request leave of the meeting to vary, alter or withdraw the motion or amendment.

(2) The presiding member must immediately put the question for leave to be granted and no debate will be allowed on that question.

Voting

Legislation – Regulation 16

(1) The presiding member, or any other member, may ask the chief executive officer to read out a motion before a vote is taken.

(2) The presiding member will, in taking a vote, ask for the votes of those members in favour of the question and then for the votes of those members against the question (and may do so often as is necessary to enable him or her to determine the result of the voting), and will then declare the outcome.

(3) A person who is not in his or her seat is not permitted to vote.

(4) Subregulation (3) –

(a) may be varied at the discretion of the council pursuant to regulation 6; and

(b) does not apply in relation to a member participating in a council committee meeting by telephone or electronic means approved in accordance with procedures determined by the council or council committee for the purpose of section 89 of the Act.

All members of the meeting must vote if they are in attendance, including the presiding member of a council committee.

While a tied vote cannot occur at Council meetings with the Mayor having a casting vote it can occur at Committee meetings. In the event that a vote is tied the matter will be referred to the parent body for deliberation; i.e. if it is a Council Committee then Council will consider the matter, or if the matter is being considered by a subcommittee then the parent committee will consider the matter.

Addresses by Members

Legislation – Regulation 15 (1) to (6)

Subregulations (1) and (2) – not varied by Council

(1) A member must not speak for longer than 5 minutes at any 1 time without leave of the meeting.

(2) A member may, with leave of the meeting, raise a matter of urgency

(3) A member may, with leave of the meeting, make a personal explanation
(4) The subject matter of a personal explanation may not be debated.

(5) The contribution of a member must be relevant to the subject matter of the debate

(6) Subregulations (1) and (2) may be varied at the discretion of the council pursuant to regulation 6

A Member may also seek Leave of the Meeting to speak more than once to an agenda item. This is generally an undesirable practice and should only be considered in limited circumstances (e.g. where additional material information comes to light during debate, or an accepted amendment materially varies an original motion). Leave of the Meeting should be sought by a Member for each instance. This also does not require a formal resolution.

The Presiding Member should generally refrain from making their contribution until the end of the debate (but before the mover speaks in reply) so as to avoid any suggestion of ‘leading’ the meeting. This requirement is not to restrict the Presiding Member in their duty of chairing meetings, from asking questions and adding valuable information to assist the debate when required.

**Divisions**

<table>
<thead>
<tr>
<th>Legislation – Regulation 17</th>
<th>Subregulation (3) - varied by the Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) A division will be taken at the request of a member.</td>
<td></td>
</tr>
<tr>
<td>(2) If a division is called for, it must be taken immediately and the previous decision of the presiding member as to whether the motion was carried or lost is set aside.</td>
<td></td>
</tr>
<tr>
<td>(3) The division will be taken as follow:</td>
<td></td>
</tr>
<tr>
<td>(a) the member voting in the affirmative will, until the vote is recorded, stand in their places;</td>
<td></td>
</tr>
<tr>
<td>(b) the members voting in the negative will until the vote is recorded, sit in their seats;</td>
<td></td>
</tr>
<tr>
<td>(c) the presiding member will count the number of votes and then declare the outcome.</td>
<td></td>
</tr>
<tr>
<td>(4) The chief executive officer will record in the minutes the names of those members who voted in the affirmative and the names of the members who voted in the negative (in addition to the result of the vote)</td>
<td></td>
</tr>
<tr>
<td>(5) Subregulation (3) may be varied at the discretion of the council pursuant to regulation 6.</td>
<td></td>
</tr>
</tbody>
</table>

Council has varied (3)(b) above as follows:

(b) then the members voting in the negative will, until the vote is recorded, stand in their place;

In a Committee meeting, the Presiding Member’s vote will be counted at the time of taking the Division.
**Points of Order**

**Legislation – Regulation 28**

(1) The presiding member may call to order a member who is in breach of the Act or these regulations.

(2) A member may draw to the attention of the presiding member a breach of the Act or these regulations, and must state briefly the nature of the alleged breach.

(3) A point of order takes precedence over all other business until determined.

(4) The presiding member will rule on a point of order.

(5) If an objection is taken to the ruling of the presiding member, a motion that the ruling not be agreed with must be moved immediately.

(6) The presiding member is entitled to make a statement in support of the ruling before a motion under subregulation (5) is put.

(7) A resolution under subregulation (5) binds the meeting and, if a ruling is not agreed with –

   (a) the ruling has no effect; and

   (b) the point of order is annulled.

**Minutes**

The Minute Takers Handbook for Local Government may be used as a guideline for preparation of minutes for Council and Committee meetings, unless varied in this Code.

**Appointment to role**

In the event that there is an item for appointment where more than one member expresses an interest in occupying a role (e.g. Deputy Mayor) the Council will follow a voting procedure in accordance with Attachment 5.

**Meeting Etiquette**

The following meeting etiquette will apply to Council and Council Committees:

- Elected Members and people making deputations, presentations or participating in the public forum, except when ill or infirm, will rise when speaking as a mark of respect at all Council meetings and Council Committee meetings.

- During Council and Council Committee meetings employees will respond to questions from the floor at the invitation of the Presiding Member and will acknowledge the Chair before replying.

- Elected Members, Council Committee members and employees are to use respectful language and adopt civil behaviour.

- At a Council meeting the principal member will be addressed as “Mayor Knight” and Committee members including the Presiding Member should be addressed by their first name.
• At Council Committee meetings members may remain seated while they are speaking, and informal dialogue is encouraged concerning agenda matters insofar as is permitted within the Regulations and the terms of reference.

• If a member needs to leave the chamber, he or she should indicate this to the Presiding Member e.g. by standing, facing the chair and making eye contact before leaving the meeting. This will also provide the minute taker the opportunity to record the movement from the Chamber. Members should be aware that as soon as they leave their seats they have left the meeting.

• Any mobile telephones brought into the meeting are to be switched to silent or vibration alert mode. Text messaging and emailing is tolerated, however the taking of telephone calls in a meeting is unacceptable.

• Elected Members are expected to afford respect to the meeting, the people they represent and all ratepayers of the City by being appropriately dressed when attending meetings. The standard of dress commonly referred to as “business” is the minimum accepted standard for Council meetings or casual business attire for Council Committee meetings.

**Visual or Audio Recordings**

Members of the public are permitted to record audio or visual footage of a Council or Council Committee meeting.

**Family and Worker Friendly Meeting Times**

This section incorporates the consideration of family and worker friendly meeting times to enable the opportunity for people to attend. The requirement is that:

• All Committees of Council establish a meeting schedule that incorporates a minimum of 50% of meetings held outside of normal business hours (8.30am – 5.00pm)

• Any decrease from this 50% position for any individual Committee of Council must be referred to Council for consideration along with a justification / explanation for the request.

**Policy implementation**

This Policy will be implemented by the Chief Executive Officer or relevant portfolio director and managed in accordance with Council’s scheme of delegations (refer to Policy Delegation No. 17).

**Accessibility**

This Policy and Council’s Fees and Charges register are available on Council’s website: www.teatreegully.sa.gov.au

Hard copies can be provided in accordance with Council’s Fees and Charges Register at Council’s Civic Centre at 571 Montague Road, Modbury SA 5092.
Meeting Agenda Template

CITY OF TEA TREE GULLY
ORDINARY MEETING

AGENDA

1. Opening Prayer and Welcome

   Prayer (Council Meeting Only)
   “Almighty God we humbly ask you for your blessing upon this Council Meeting, direct and
   prosper our deliberations to the advancement of your glory and the welfare of the people of
   our City and of Australia. Amen.”

   Acknowledgement of Country Statement
   “The City of Tea Tree Gully recognises this City’s considerable natural and cultural heritage,
   including thousands of years of Traditional Ownership by the Kaurna people and the more
   recent contributions from all who live here. We build on this heritage today by respecting and
   listening to each other, being receptive to new ideas and acting wisely for the current and
   future well-being of our community”.

2. Attendance Record:

   2.1 Present
   2.2 Apologies
   2.3 Leave of Absence – A resolution granting leave of absence is to be considered by
       Council (Council Meeting Only)
   2.4 Record of Officers in Attendance
   2.5 Record of number of persons in the Public Gallery
   2.6 Record of media in attendance

3. Confirmation of Minutes of the Previous Meeting

   That the Minutes of the Committee Name Meeting held on Date be confirmed as a true and
   accurate record of proceedings.

4. Mayor’s Report (Council Meeting Only)

5. Public Forum
   Available to the public to address Council on policy, strategic matters or items that are
   currently before the Council. Total time 10 mins with maximum of 2 mins per speaker. For
   more information refer to Council’s website www.teatreegully.sa.gov.au

6. Deputations - Nil
   Requests from the public to address the meeting must be received in writing 5 days prior to
   the meeting and approved by the Mayor. For more information refer to Council’s website
   www.teatreegully.sa.gov.au
7. **Presentations**  
Requests from the public to present to the meeting must be received in writing 5 days prior to the meeting and approved by the Mayor. For more information refer to Council’s website www.teatreegully.sa.gov.au

8. **Petitions**

9. **Declaration of Interests**  
Members invited to declare any interests in matters appearing before Council.

10. **Adjourned Business**

11. **Motions Lying on the Table**

12. **Committee Reports (Council Only)**  
   - Audit Committee
   - Governance and Policy Committee
   - CEO Performance and Remuneration Review Committee
   - Strategic Planning and Development Policy Committee

13. **Withdrawal of Management Reports for Discussion (starring of items)**
    
    That having read and considered the following matters (item no …………….), the Council resolves them “en bloc” in accordance with the recommendations before Council and that each separate subject be allocated a specific Council resolution number.

14. **Management Reports**
   - Office of the CEO
   - Assets and Environment
   - Organisational Services and Excellence
   - Community and Cultural Development

15. **Notice of Motions**

16. **Motions without Notice**

17. **Questions on Notice**
18. Questions without Notice

19. Council Delegates and Activities Reports (Council Only)
   Members are invited to report any attendance at meetings and functions on behalf of Council
   where they have filled an official Council representative role or a role on behalf of the Mayor.

20. Information Reports


22. Other Business

23. Section 90(2) Local Government Act 1999 – Confidential Items
   A record must be kept on the grounds that this decision is made.

24. Date of Next Ordinary Meeting
   Date of next meeting

25. Closure
   The Council meeting shall conclude on or before 10.30pm unless there is a specific motion
   adopted at the meeting to continue beyond that time.
CITY OF TEA TREE GULLY

SPECIAL MEETING

AGENDA

1. Opening Prayer and Welcome

   Prayer (Council Meeting Only)
   “Almighty God we humbly ask you for your blessing upon this Council Meeting, direct and
   prosper our deliberations to the advancement of your glory and the welfare of the people of
   our City and of Australia. Amen.”

   Acknowledgement of Country Statement
   “The City of Tea Tree Gully recognises this City’s considerable natural and cultural heritage,
   including thousands of years of Traditional Ownership by the Kaurna people and the more
   recent contributions from all who live here. We build on this heritage today by respecting and
   listening to each other, being receptive to new ideas and acting wisely for the current and
   future well-being of our community”.

2. Attendance Record:

   2.1 Present
   2.2 Apologies
   2.3 Leave of Absence – A resolution granting leave of absence is to be considered by
   Council (Council Meeting Only)
   2.4 Record of Officers in Attendance
   2.5 Record of number of persons in the Public Gallery
   2.6 Record of media in attendance

3. Public Forum
   Available to the public to address Council only in relation to an item listed on the agenda.
   Total time 10 mins with maximum of 2 mins per speaker. For more information refer to
   Council’s website www.teatreegully.sa.gov.au

4. Deputations - Nil
   Requests from the public to address the meeting must be received in writing 5 days prior to
   the meeting and approved by the Mayor. For more information refer to Council’s website
   www.teatreegully.sa.gov.au

5. Presentations
   Requests from the public to present to the meeting must be received in writing 5 days prior to
   the meeting and approved by the Mayor. For more information refer to Council’s website
   www.teatreegully.sa.gov.au

6. Declaration of Interests
   Members invited to declare any interests in matters appearing before Council.
7. Matters for Discussion

8. Notice of Motions

9. Questions on Notice

10. Other Business
    Any matters considered under Other Business must be related to an Agenda item for the relevant Special Meeting

11. Section 90(2) Local Government Act 1999 – Confidential Items
    A record must be kept on the grounds that this decision is made.

12. Closure
    The Council meeting shall conclude on or before 10.30pm unless there is a specific motion adopted at the meeting to continue beyond that time.
Notice of Motion – Manner and Form

[This first page is to be completed by the Elected Member submitting the motion]

City of Tea Tree Gully

(NAME OF MEETING)

(DATE OF MEETING IS TO BE SUBMITTED)

NOTICE OF MOTION

Subject of the motion

I, (Name), do hereby give notice of my intention to move the following motion at the next (Meeting) of (Council or relevant Committee) of the City of Tea Tree Gully:

That <Enter the recommendation>

Background

<Enter text>

Councillor (Name)

Ward

(Date)
[This page is to be completed by staff]

City of Tea Tree Gully

(NAME OF MEETING)

NOTICE OF MOTION

CEO’S COMMENTS

Subject of the motion

Policy

<Brief comment on policy implications>

Risk

<Brief comment on any risks that have been identified with the motion>

Financial Implications

<Brief comment on the financial impact of the motion>

Attachments

N/A

Report Authorisers

John Moyle
Chief Executive Officer
Question on Notice – Manner and Form

[This first page is to be completed by the Elected Member submitting the motion]

City of Tea Tree Gully

(NAME OF MEETING)

(DATE OF MEETING IS TO BE SUBMITTED)

QUESTION ON NOTICE

Subject of the question

Councillor <Enter name> asked the following question on notice:

<Enter question>

Councillor (Name)
(Ward)
(Date)
Voting Matters

When Council is faced with voting on a matter there are several methods available to assist Council in making the decision.

The formal method involves a mover / seconder of a motion followed by debate and then the matter is voted upon – this is provided for in the Local Government (Procedures at Meetings) Regulations 2013 and in Council’s Code of Practice for Council and Council Committee Meeting Procedures. Sometimes one or two amendments are used as a slight variation to this method.

There are a number of other options available to assist Council to get to the above position. These do not form part of the formal procedures for Council meetings, but are purely a means of getting to a position of being ready to present a recommendation to Council.

Some of these alternative options are:

- A show of hands of which option the Elected Members prefer
- Suspension of formal proceedings and allow open discussion
- A secret ballot - with this option the views of an individual member is not public until it is followed with a public vote.

It must be stressed that none of these methods form part of the Council resolution process.

In summary these alternative processes assist with the vote and are only a means to getting to the end of a preferred candidate’s name being put forward. They assist in limiting the risk of having a recommendation being defeated and being publicly recorded.

It is important that Elected Members agree to a process prior to a formal resolution for appointment.

A suggested process to assist Council is a secret ballot where:

- The Mayor (or Presiding Member) will call for candidate(s) and a paper ballot (one vote per Elected Member) will be arranged by the Governance Officer
- The candidate(s) with the highest number of votes will be taken to be the preferred candidate(s) for the position(s) of appointee(s)
- Following the secret ballot, which is to be counted by the Governance Officer (or delegate) and scrutinised by the CEO, the Mayor (or Presiding Member) will invite a motion from the floor, recommending the candidate(s) with the most votes to be the appointee(s).
RECOMMENDATION

That Governance and Policy Committee notes the report entitled “Status Report on Council or Committee Resolutions” and dated 20 April 2016 noting that all completed actions from this report will be removed from future reports.

Note: Confidential actions have been removed from the Status Report.

Pending Actions

<table>
<thead>
<tr>
<th>Minute No.</th>
<th>Meeting</th>
<th>Officer</th>
<th>Subject</th>
<th>Estimated Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>D16/10635</td>
<td>Andrew Sellars</td>
<td>Tree Management Policy</td>
<td>30/04/2016</td>
</tr>
<tr>
<td></td>
<td>17 February 2016</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>23 Feb 2016 - 5:11 PM - Andrew Sellars - Revised Target Date changed by: Trisha Gundlach From: 02 Mar 2016 To: 30 Apr 2016 - Reason: Information on valuation approach and development impact to be sourced</td>
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<tr>
<td></td>
<td>22 Feb 2016 - 2:52 PM - Kelli Strugnell - Further background information to be developed for workshop with Elected Members.</td>
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<td>4</td>
<td>D16/10638</td>
<td>Gabby D’Aloia</td>
<td>Boundary Fence Management Policy</td>
<td>20/04/2016</td>
</tr>
<tr>
<td></td>
<td>12 Apr 2016 - 5:30 PM - Kelli Strugnell</td>
<td></td>
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<tr>
<td></td>
<td>Policy returning to Governance and Policy Committee 20 April 2016</td>
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Completed Actions

<table>
<thead>
<tr>
<th>Minute No.</th>
<th>Meeting</th>
<th>Officer</th>
<th>Subject</th>
<th>Completed</th>
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<tr>
<td>2</td>
<td>D16/10636</td>
<td>Tanya Hook</td>
<td>Privacy Policy</td>
<td>18/03/2016</td>
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<td></td>
<td>17 February 2016</td>
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<td></td>
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<tr>
<td></td>
<td>18 Mar 2016 - 10:56 AM - Tanya Hook</td>
<td></td>
<td>This has been to Council and has been placed on Council's website.</td>
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<tr>
<td></td>
<td>22 Feb 2016 - 12:06 PM - Kelli Strugnell - Report created for Council meeting 8 March 2016 as per GPC recommendation</td>
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<td>3</td>
<td>D16/10637</td>
<td>Tanya Hook</td>
<td>Children and Vulnerable Persons Safe Environment Policy</td>
<td>18/03/2016</td>
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<td>17 February 2016</td>
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<tr>
<td></td>
<td>11 Mar 2016 - 5:03 PM - Kelli Strugnell - Policy adopted by Council as per Committee recommendation 8 March 2016 - Resolution 400</td>
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<td></td>
<td>22 Feb 2016 - 12:07 PM - Kelli Strugnell - Report created for Council meeting 8 March 2016 as per GPC recommendation</td>
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<tr>
<td>6</td>
<td>D16/10640</td>
<td>Tanya Hook</td>
<td>Community Transport Service - Advertising Guidelines Policy</td>
<td>18/03/2016</td>
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<td>17 February 2016</td>
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<tr>
<td></td>
<td>18 Mar 2016 - 10:56 AM - Tanya Hook</td>
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<td>This has been to Council and has been placed on Council's website.</td>
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<td>11 Mar 2016 - 5:03 PM - Kelli Strugnell - Policy adopted by Council as per Committee recommendation - 8 March 2016 - Resolution 399.2</td>
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<td>22 Feb 2016 - 12:07 PM - Kelli Strugnell - Report created for Council meeting 8 March 2016 as per GPC recommendation</td>
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<tr>
<td>Minute No.</td>
<td>Meeting</td>
<td>Officer</td>
<td>Subject</td>
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<td>7</td>
<td>17 February 2016</td>
<td>Tanya Hook</td>
<td>Development Fees Variation Policy</td>
<td>18/03/2016</td>
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<tr>
<td>D16/10641</td>
<td>18 Mar 2016 - 10:57 AM - Tanya Hook</td>
<td>Action completed by: Tanya Hook - This has been to Council and has been placed on Council's website.</td>
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<td>11 Mar 2016 - 5:04 PM - Kelli Strugnell</td>
<td>Policy adopted by Council as per Committee recommendation - 8 March 2016 - Resolution 399.3</td>
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<td></td>
<td>22 Feb 2016 - 12:07 PM - Kelli Strugnell</td>
<td>- Report created for Council meeting 8 March 2016 as per GPC recommendation</td>
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<td>Informal Gatherings Policy</td>
<td>18/03/2016</td>
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<td>Action completed by: Tanya Hook - This has been to Council and has been placed on Council's website.</td>
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<td>11 Mar 2016 - 5:04 PM - Kelli Strugnell</td>
<td>Policy adopted by Council as per Committee recommendation, taking into account extra information provided to the Council since the Committee meeting - 8 March 2016 - Resolution 399.4</td>
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<td>22 Feb 2016 - 12:07 PM - Kelli Strugnell</td>
<td>- Report created for Council meeting 8 March 2016 as per GPC recommendation</td>
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<td>5</td>
<td>17 February 2016</td>
<td>Tanya Hook</td>
<td>Provision of Council Resources to Support the Emergency Services in Emergencies Policy</td>
<td>22/02/2016</td>
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<td>D16/10639</td>
<td>22 Feb 2016 - 10:49 AM - Tanya Hook</td>
<td>Action completed by: Tanya Hook - This policy has been updated and placed on Council's website.</td>
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<td>17 February 2016</td>
<td>Kelli Strugnell</td>
<td>Liquor Licence Application Management Policy</td>
<td>22/02/2016</td>
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<td>D16/10642</td>
<td>22 Feb 2016 - 2:58 PM - Kelli Strugnell</td>
<td>Action completed by: Kelli Strugnell - Policy to be further reviewed once an outcome has been achieved with the current application for extended trading hours at the Valley Inn. Report created for GPC at that time.</td>
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</tbody>
</table>