

# Notice of Governance and Policy Committee Meeting

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## MEMBERSHIP

Cr Damian Wyld (*Presiding Member*)

Cr Lucas Jones  
Cr Jessica Lintvelt  
Cr Rob Unger

Cr Lyn Petrie  
Cr Peter Field

NOTICE is given pursuant to Sections 87 and 88 of the Local Government Act 1999 that the next GOVERNANCE AND POLICY COMMITTEE MEETING will be held in the Civic Centre, 571 Montague Road, Modbury on MONDAY 25 JULY 2022 commencing at 6.30pm

A copy of the Agenda for the above meeting is supplied.

Council may restrict or limit access to members of the public physically attending the meeting to ensure compliance with current restrictions. Priority will be given to members of the public who wish to speak in the Public Forum and Deputation section of the agenda and have obtained prior approval from Council.

JOHN MOYLE  
CHIEF EXECUTIVE OFFICER

Dated: 19 July 2022

# CITY OF TEA TREE GULLY

## GOVERNANCE AND POLICY COMMITTEE MEETING 25 JULY 2022

### AGENDA

#### 1. Opening and Welcome

Acknowledgement of Country Statement - to be read out as arranged by the Presiding Member

#### 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 in Attendance

#### 3. Confirmation of Minutes to the Previous Meeting

That the Minutes of the Governance and Policy Committee held on 29 March 2022 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.cttg.sa.gov.au](http://www.cttg.sa.gov.au)*

#### 5. Deputations - Nil

*Requests from the public to address the meeting must be received in writing prior to the meeting and approved by the Presiding Member. For more information refer to Council's website [www.cttg.sa.gov.au](http://www.cttg.sa.gov.au)*

6. Presentations - Nil

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 - Nil

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. Returned Policies

13. First Discussion of Policies

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13.9	Children and Vulnerable Persons Policy .....	120
13.10	Code of Practice for Meeting Procedures and Live-Streaming Options .....	129
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14.	Notice(s) of Motion - Nil	
15.	Motion(s) without Notice	
16.	Question(s) on Notice - Nil	
17.	Question(s) without Notice	
18.	Status Report on Resolutions	
18.1	Status Report on Governance and Policy Committee Resolutions .....	198
19.	Other Business	
20.	Section 90(2) Local Government Act 1999 – Confidential Items	
21.	Date of Next Meeting	
	17 August 2022	
22.	Closure	

## PROPERTY IDENTIFICATION POLICY

Responsible Manager: Manager Finance & Rating Operations

As part of the policy review we have identified an opportunity to strengthen the Policy and include the naming of Council reserves, parks, open spaces and building with either a Kaurna name or dual names.

Part of resolution from Council Meeting 24/5/22 re naming of Gilmour Park:

**“Refer the broader concept of dual naming of Council reserves to Council’s next meeting of the Governance & Policy Committee for further consideration recognising this is a matter that should be considered holistically for all reserves as part of a review of Council’s Property Identification Policy.”**

### RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

That the “Property Identification Policy  
**” as reviewed by** the Governance and Policy Committee on 25 July 2022 be adopted.

OR

That the “Property Identification Policy  
**” as reviewed by** the Governance and Policy Committee on 25 July 2022 be returned to  
**the “Governance and Policy Committee”** for consideration.

Summary of changes		
Page No.	Heading	Comments
2	Purpose	The addition of a sentence that includes that this policy will include the setting out the process for naming Council reserves, parks, open spaces and buildings
3	Property Numbering	Update to the wording
4	Place Naming (for discussion)	Dual naming concept – this has been referred to the GPS from Council Meeting 24/5/22 as part of the naming of Gilmour Park, Tea Tree Gully.  The addition of Assigning a 2.4 Kaurana Name or 2.4 Dual Names with either option to be considered for inclusion in the policy.
6	Other References	Addition of reference to Geographical Names Guidelines
7	Strategic Plan	Addition of strategic objectives
7	Accessibility	Removal of the reference as not applicable

#### Attachments

1. [Property Identification Policy - reviewed version for GPC Meeting - 6 July 2022.....7](#)

# Property Identification Policy



Record number	D22/41658
Responsible Manager	Manager Finance & Rating Operations
Other key internal stakeholders	Director Organisational Services and Excellence Director Assets and Environment Manager Civil and Water Operations
Last reviewed	
Adoption reference	
Resolution number	
Previous review dates	21 /10/2020, 18/10/17, 12/08/14, (Merges Property Numbers on Kerbs Policy into this Policy), 17/09/13, 08/06/10, 09/10/07, 25/07/06, 25/02/03, 13/03/01
Legal requirement	Section 219 of the Local Government Act 1999 requires Council to have a policy relating to the assigning of road names.  Section 219(7) of the Act requires a public notice to be given at the adoption or alteration of the above section within this Policy.
Due date next review	2023

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.

## 1. PURPOSE

The purpose of this Policy is to state Council's position in regard to the naming of roads and the system of numbering of properties along roads within the City of Tea Tree Gully area. The existence of this Policy will assist in establishing guidelines for naming new roads, changing road names, numbering of properties along roads and the naming of Council reserves. This policy will also set out the process for the naming of Council's reserves, parks, open spaces and buildings.

## 2. POLICY

Road naming and property numbering will be implemented in accordance with the following general principles:

### 2.1 Road Naming

#### 2.1.1 Public Roads

All roads will be named and sign posted accordingly. To avoid the potential for confusion with other road names within the City (including potential for confusion that may be caused by pronunciation of the road name) new road names will not be duplicated. All signs are to be in accordance with relevant standards and Council's Signage Policy.

Where possible, Council encourages road names to be based on themes, especially those that are reflective of the historical, cultural or environmental assets of the City.

Council will not accept road names that have another meaning in their own right, such as Tennis Court, Federal Court etc.

#### 2.1.2 Private Roads

Council will not enter into the naming of private roads, such as those within Retirement Villages and similar private areas that do not meet the definition of a public road within this Policy unless specifically requested by the owners of the property.

Any signage associated with private roads will be the responsibility of the property owner and owners will be required to carry out such works according to section 216 of the *Local Government Act 1999*.

#### 2.1.3 Requests to Change a Public Road Name

Where Council receives a request to change the name of an existing public road, the applicant must provide:

- a. The request in writing
- b. The reason for the proposed road name change
- c. The proposed future road name
- d. Any supporting documentation deemed necessary by Council or the delegated employees.

Council will consider each request on the merit of the proposal and give consideration to the reasons provided for the road name change.



Where Council receives a request to change a road name and believes the existing road name creates confusion the following principles will apply:

- a. Council or its relevant Committee will consider this Policy but may resolve to take no further action in which case the applicant will be informed accordingly, including the reasons for the decision
- b. Council will undertake consultation in respect of the proposed change, which should occur over a four (4) week period, this will include but not be limited to the views of:
  1. Elected Members
  2. All those living and owning property along the relevant roads
  3. Emergency services
  4. Australia Post.

with Council or the relevant Committee having the final decision as to the future name of the road.

Should Council resolve to assign an alternative road name, Council will notify the relevant parties and place a public notice as required in accordance with section 219(3) and (4) of the Local Government Act 1999. In addition to the legislative requirements, Council will notify emergency services of the road name change and all residents living along the relevant road.

### 2.1.4 Property Numbering

All new property numbering systems will be in accordance with the Australian/New Zealand Standard (AS/NZS 4819:2011) entitled 'Rural and Urban Addressing' and each occupied property should clearly display a property number. Where the existing numbering system does not conform along a road with this standard Council will not be obligated to change the numbering system.

Where Council receives a request to correct existing anomalies in the numbering of roads, Council will consider each request on the merit of the proposal and ~~give consideration to~~ consider the reasons provided for the renumbering of a road.

In accordance with section 220(5) property owners must not adopt a number for a building or allotment that is inconsistent with a numbering system adopted by Council.

In accordance with section 220(6) of the Local Government Act 1999 property owners must ensure that the number of their building or allotment is displayed on their property in a form directed or approved by Council.

Where there are changes to property numbering systems along a particular road, Council will notify the Valuer-General and place a public notice of the resolution adopting, altering or substituting a numbering system for a particular road, in accordance with section 220(3) of the Local Government Act 1999.

### 2.1.5 Property numbers on kerbs

Council acknowledges that street numbers beyond the property boundary are not always easily seen from the road outside of daylight hours and an additional form of numbering is often sought. Council supports the principle of painting of house numbers on kerbs with the aim of assisting the public and emergency services in locating properties. Council's position is that

community groups such as neighbourhood watch (or similar) should be allowed to perform this work provided Council's risk is minimised, there is minimal cost to Council and a reasonable standard of works can be assured.

The CEO will ensure guidelines are maintained for this policy position.

## 2.2 ~~3. PLACE NAMING~~ Place Naming

### ~~2.1.6 3.12.3~~ Reserve Naming

All reserves under Council's care and control will be allocated a name. In the first instance any Reserve that does not have a common name will be allocated the name of an adjoining road.

- a. Where a reserve has an existing known and well-used name (other than that of the adjoining road) that name will be allocated in Council's property database.
- b. Where Council receives a request for a name change (to that allocated in Council's property database) a report will be prepared by the relevant Council department and submitted to the Council or the relevant committee for consideration. Community consultation may be considered as part of the decision making process.

All names assigned to reserves will be reflected in the relevant community land management plans.

### ~~3.22.4~~ Assigning a Kurna Name

When considering a Kurna name for a parcel of land, Council will follow an agreed acceptable practice for applying Kurna names to public land and refer the matter to Kurna Warra Karpnanthi (KWK) along with some unique known features of the land who will provide appropriate name to Council.

### ~~3.3.2-2.5~~ Dual Names

A dual naming system enables the assignment of an additional name to a feature that already has an official name. It can be used for naming features when an official name is widely accepted and in long use and when a name change is not possible or acceptable. The Policy proposes that dual naming will be used to enable a Kurna name and an introduced name to be used together as the official name.

Dual names may be assigned to a public place where there is a geographical and topographical feature that has both a traditional Kurna name and an existing name. Dual names would not be adopted for constructed features such as roads, bridges or buildings.

When assigning or recording a name to a previously unrecorded natural feature that has an unrecorded European name in local usage, every effort will be made to determine if an Aboriginal name exists for that feature and a dual name will be assigned or recorded

When considering a Kurna name for a parcel of land, Council will follow an agreed acceptable practice for applying Kurna names to public land and refer the matter to Kurna Warra Karpnanthi (KWK) along with some unique known features of the land who will provide an appropriate name to Council.

When a dual name is proposed Council will consult with the community and seek feedback in line with our Community Engagement policy.

### 3.4 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.

#### Emergency Services and Local Authorities

Includes the local branches of the South Australian Country Fire Service, State Emergency Service, SA Ambulance Service and South Australian Police.

#### Private road

As defined under the Local Government Act 1999, means a road in private ownership.

#### Public Place

A place (including a place on private land) to which the public has access, but does not include any part of a community parcel divided by a plan of community division under the Community Titles Act 1996.

#### Public Road

Under the *Local Government Act 1999* this means:

- (a) any road or land that was, immediately before the commencement of this Act, a public street or road under the repealed Act; or
  - (b) any road:
    - (i) that is vested in a council under this or another Act; or
    - (ii) that is placed under a council's care, control and management as a public road after the commencement of this Act,
 but not including an alley, laneway, walkway or other similar thoroughfare vested in a council; or
  - (c) any road or land owned by a council, or transferred or surrendered to a council, and which, subject to this Act, is declared by the council to be a public road; or
  - (d) any land shown as a street or road on a plan of division deposited in the Lands Titles Registration Office or the General Registry Office and which is declared by the council to be a public road; or
  - (e) any land transferred or surrendered to the Crown for use as a public road that was, immediately before the transfer, held by a person in fee simple or under a lease granted by the Crown,
- (and includes any such road that is within the boundaries of a public square).

#### 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 continuous basis to vehicles or pedestrians or both and includes:

- a. A bridge, viaduct or subway or
- b. An alley, laneway or walkway

For the purpose of this Policy only, roads will not include walkways and pedestrian paths.

All reserves under Council's care and control will be allocated a name. In the first instance any Reserve that does not have a common name will be allocated the name of an adjoining road.

- a. Where a reserve has an existing known and well-used name (other than that of the adjoining road) that name will be allocated in Council's property database
- b. Where Council receives a request for a name change (to that allocated in Council's property database) a report will be prepared by the relevant Council department and submitted to the Council or the relevant committee for consideration. Community consultation may be considered as part of the decision making process.

All names assigned to reserves will be reflected in the relevant community land management plans.

#### **4.4.5 LEGISLATIVE FRAMEWORK**

The following legislation applies to this Policy:

##### Local Government Act 1999

Section 219 of this Act grants Council the power to assign a name or change the name of a road or public place, while section 220 of this Act provides for the numbering of adjacent premises and allotments.

Under section 219(5) of this Act, Council is required to adopt a policy relating to the assigning of road names.

Section 219(7) of the Act requires a public notice to be given at the adoption or alteration of this Policy.

In accordance with section 220(6) of this Act, property owners must ensure that the number of their building or allotment is displayed in a form directed or approved by Council.

#### **4.145.1 Other references**

Council's document including:

- a. Fees and Charges Register
- b. Property Numbers on Kerbs Guidelines
- c. Signage and Entrance Statement Policy

External document including:

- a. Australian/New Zealand Standard (AS/NZS 4819:2011) entitled 'Rural and Urban Addressing' sets the standard for rural and urban addressing.
- a-b. Geographical Names Guidelines

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

#### **5.56. STRATEGIC PLAN/POLICY**

### ~~5.156.1~~ Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:

Places	
<i>Streets, paths, open spaces and parks are appealing, safe and accessible</i>	<i>This will ensure that all properties are identified and easily located.</i>

### ~~5.256.2~~ Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of organisational excellence. The theme most relevant to this report is Finance and systems to ensure street naming and numbering is appropriate.

## ~~6.67~~ 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.

## ~~7.8~~ ACCESSIBILITY

~~This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: [www.cttg.sa.gov.au](http://www.cttg.sa.gov.au)~~

~~Hard copies, for a fee, can be provided in accordance with Council's Fees and Charges Register at Council's Civic Centre at 571 Montague Road, Modbury SA 5092.~~



City of Tea Tree Gully  
Governance and Policy Committee

Document Cover Sheet

25 JULY 2022

LATE PAYMENT AND SALE OF LAND FOR NON PAYMENT OF  
COUNCIL RATES POLICY

Responsible Manager: Manager Finance & Rating Operations

The Late Payment and Sale of Land for Non-Payment of Council Rates Policy has been updated to include some legislative changes recently made to Section 184 of the Local Government Act 1999.

RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

That the “Late Payment and Sale of Land for Non Payment of Council Rates Policy” **as** reviewed by the Governance and Policy Committee on 25 July 2022 be adopted.

Summary of changes		
Page No.	Heading	Comments
3	2.2 Sale of Land for Non-Payment of rates	The wording in the second to last sentence has been <b>changed slightly to include “and any holder of a caveat over the land”</b>
7	Section 184—Sale of land for non-payment of rates	Section (3) (ba) the following has <b>been added “to the holder of any caveat over the land, and”</b>

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Supporting Information
<a href="#">Local Government Act 1999</a>

# Attachments

1. <a href="#">Late Payment and Sale of Land for Non-Payment of Council Rates Policy - Revised Version for GPC 6 July 2022.....</a>	16
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# Late Payment and Sale of Land for Non-Payment of Council Rates Policy



Record number	D22/41653
Responsible Manager	Manager Finance & Rating Operations
Other key internal stakeholders	Director Organisational Services & Excellence Manager Customer & Communications Team Leader Rating & Finance operations
Last reviewed	
Adoption reference	
Resolution number	
Previous review dates	13/04/2021, 10/4/2018, 9/2/2016, 13/05/14 (Merges Late Payment of Council Rates Policy and Sale of Land for Non-Payment of Council Rates Policy)
Legal requirement	NA
Due date next review	2023

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.



## 1. PURPOSE

The purpose of this policy is to formally state Council's position in relation to:

- a. Fines / penalties for late payment of rates and the situations in which Council will or will not consider remitting the fines / penalties and charges relating to payments of Council rates
- b. Selling land for non-payment of Council rates and the steps that will be taken prior to selling land to recover rates debts.

## 2. POLICY

### 2.1 Late Payment of Council Rates

There will be a grace period of three working days after the due date for payment to allow for the administration functions of processing external agency payments. Late payment penalties will be remitted if payment is received within the grace period.

Fines and/or penalties for late payment of rates may otherwise be waived upon application in writing by any person under the following circumstances:

- a. Financial difficulties due to unemployment or sickness of the principal income earner
- b. Delayed applications for financial assistance through the Department for Communities and Social Inclusion
- c. Accidents, sudden hospitalisation or serious illness
- d. Non-receipt of rates notice
- e. The history of a ratepayer's payment of rates i.e. normally pays by the due date
- f. Financial hardship

Fines and interest will only be remitted once the arrears have been paid in full.

The following reasons are considered as not acceptable and fines / penalties for late payment will not be remitted:

- a. Loss of cheques for payment of rates in the post
- b. Late receipt of payments due to postal delay
- c. Late remittances for payments made by financial institutions on the client's behalf
- d. Absenteeism from the area due to business or vocational purposes
- e. Intentional late payment as an objection for alleged non-receipt of expected services
- f. Simple oversight and no other explanation given.

Council will issue an overdue account for payment of rates when rates are overdue i.e. unpaid by the due date. Should rates remain unpaid for more than 30 days after the issue of an overdue account then Council will refer the debt to a debt collection agency for collection. The debt collection agency will charge collection fees that are recoverable from the ratepayer.

## 2.2 Sale of Land for Non-Payment of Rates

Council recognises the severe impact that the sale of land can have on an individual property owner and accordingly this action will only be instigated after a series of steps have been completed. This approach will assist in providing that all ratepayers will be treated fairly and equally in regard to the recovery of long-term rates debt. At the same time, the balance of the community should not be required to bear the financial burden of any long term rate debts.

Shortly before a ratepayer's rates debt has been in arrears for two years and again at three years, the ratepayer will be advised in writing of the following:

- a. Council's ability to recover rates via sale of land (without any threat to proceed) and requesting their cooperation by arranged payment of debt and payment options
- b. Outlining the process details relating to section 184 of the Act and action if the rates remain outstanding for over three years
- c. That any interested parties, such as mortgagees, will be notified if an arrangement to clear the debt is not forthcoming
- d. Requesting a response within one month from the date of the letter.

If as a result of the preceding actions, the following will occur for all rate debt in arrears by three years or more and in the instance where the ratepayer has not contacted Council or made any appropriate arrangements to clear the outstanding debt within the required timeframe, the details of the debtor will be forwarded to Council's solicitor for the following action:

- a. A Final Demand for Unpaid Council Rates allowing 14 days to make an arrangement advising that a Notice Requiring Payment of Rates under section 184 of the Act will be issued with no opportunity for an arrangement after this time.

If as a result of issuing the Final Demand for Unpaid Council Rates, the ratepayer does not contact or make appropriate arrangements to clear the outstanding debt within the required timeframe, the following minimum action will be instigated:

- a. A report will be provided to Council
- b. If Council resolves to proceed with sale of land, a Notice Requiring Payment of Rates from Council's solicitor, will be sent to the relevant ratepayer pursuant to section 184(2) of the Act which states:
  1. The period for which the rates have been in arrears
  2. The amount of the total liability for rates presently outstanding in relation to the land
  3. If that amount is not paid by a specified date (which must be at least one month from the date of service of the notice), the Council intends to sell the land to recover the rates.

A copy of this notice will also be sent to the persons required under section 184(3) of the Act including to any owner of the land who is not the principal ratepayer ~~and~~ any registered mortgagee of the land and any holder of a caveat over the land.

Elected Members will be advised of the outcome when either the property is sold or the rates debt has been satisfied.

The professional services of Council's debt collector and/or solicitors will be used as required to ensure Council's processes are appropriate and in accordance with the provisions of the Act.

### 3. DEFINITIONS

For the purposes of this policy the following definitions apply:

Act

Refers to the Local Government Act 1999.

### 4. LEGISLATIVE FRAMEWORK

#### 4.1 Legislative requirement

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 181 of this Act provides that Council impose a penalty of 2% on any payment for rates and charges that are received late. A payment that continues to be late is then charged interest until such time as the debt is satisfied. The interest rate is set according to a formula in the Act based on the Cash Advance Debenture Rate for each month it remains outstanding. The purpose of this penalty is to act as a genuine deterrent to ratepayers who might otherwise fail to pay their rates on time, to allow Council to recover the administrative cost of following up unpaid rates and to cover any interest the Council may have lost as a result of not receiving the rates on time.

Section 181 of this Act gives Council the power to remit any late penalties in whole or in part.

Section 184 (see Attachment 1) of this Act provides that a Council may sell any property where the rates have been in arrears for three years or more. The Council is required to notify the owner of the land of its intention to sell the land, provide the owner with details of the outstanding amounts, and advise the owner of its intention to sell the land if payment of the outstanding amount is not received within one month.

#### 4.2 Other references

Council's documents including:

- a. Fees and Charges Register.

### 5. STRATEGIC PLAN/POLICY

#### 5.1 Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:

Objective	Comments
<b>Community</b>	
<i>People feel a sense of belonging, inclusion and connection with the City and the community</i>	
<i>Diversity is welcome and celebrated</i>	
<i>There are opportunities for people to volunteer, give back and share their skills with others</i>	
<i>Our services are accessible to all and respond to changing community needs</i>	
<i>People can have a say in decisions that affect them and the key decisions of the Council</i>	
<b>Environment</b>	
<i>Environmentally valuable places and sites that are flourishing and well cared for</i>	
<i>A community that is protected from public and environmental health risks</i>	
<i>The carbon footprint of our city is reduced through the collective efforts of community and Council, including businesses</i>	
<i>Our consumption of natural resources is minimized by reducing, reusing and recycling products and materials, and using renewable resources</i>	
<i>We are resilient to climate change and equipped to manage the impact of extreme weather events</i>	
<i>Our tree canopy is increasing</i>	
<b>Economy</b>	
<i>Modbury Precinct is revitalised as the city's key activity</i>	
<i>A population profile that supports a growing economy</i>	
<i>A local economy that is resilient and thrives, where businesses are supported to grow and prosper, provide local jobs and sustain our community and visitors and utilize technology to improve the livability of our city</i>	
<i>People are supported to develop their leadership and employment capabilities</i>	
<i>Support the efficient use of land for valuable mineral extraction and energy resources</i>	
<b>Places</b>	
<i>Streets, paths, open spaces and parks are appealing, safe and accessible</i>	

<i>Opportunities exist to express and experience art and culture</i>	
<i>Neighbourhoods are easy to move around and are well connected with pedestrian and cycle paths that offer an alternative to cars</i>	
<i>Buildings and places are energy efficient, well designed and display a uniqueness of character and identity</i>	
<i>Housing is well designed and affordable and responds to the changing needs of existing and future residents</i>	
<i>Infrastructure and community facilities are fit for purpose, constructed using sustainable practices and well maintained</i>	
<b>Leadership</b>	
<i>Leadership and advocacy is focused on the long term interests of the community</i>	
<i>Customer service provides a positive experience for people and is based on honesty and transparency</i>	
<i>Planning considers current and future community needs</i>	
<i>Delivery of services is sustainable and adaptable</i>	
<i>Decision making is informed, based on evidence and is consistent</i>	
<i>Major strategic decisions are made after considering the views of the community</i>	

~~{remove aspirations that are not relevant}~~

## 5.2 Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of organisational excellence. The themes most relevant to this report are: People and Leadership; Customers and community relations; Governance; Finance and systems, Continuous improvement

## 6. 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.

## ~~7. ACCESSIBILITY~~

- ~~— This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: [www.cttg.sa.gov.au](http://www.cttg.sa.gov.au)~~
- ~~— Hard copies, for a fee, can be provided in accordance with Council's Fees and Charges Register at Council's Civic Centre at 571 Montague Road, Modbury SA 5092.~~

|

## Attachment 1

### Section 184—Sale of land for non-payment of rates

- (1) If an amount payable by way of rates in respect of land has been in arrears for three years or more, the council may sell the land.
- (2) Before a council sells land in pursuance of this section, it must send a notice to the principal ratepayer at the address appearing in the assessment record—
  - (a) stating the period for which the rates have been in arrears; and
  - (b) stating the amount of the total liability for rates presently outstanding in relation to the land; and
  - (c) stating that if that amount is not paid in full within one month of service of the notice (or such longer time as the council may allow), the council intends to sell the land for non-payment of rates.
- (3) A copy of a notice sent to a principal ratepayer under subsection (2) must be sent—
  - (a) to any owner of the land who is not the principal ratepayer; and
  - (b) to any registered mortgagee of the land; and
  - ~~(ba) to the holder of any caveat over the land; and~~
  - (c) if the land is held from the Crown under a lease, licence or agreement to purchase—to the Minister who is responsible for the administration of the *Crown Lands Act 1929*.
- (4) If—
  - (a) a council cannot, after making reasonable inquiries, ascertain the name and address of a person to whom a notice is to be sent under subsection (2) or (3); or
  - (b) a council considers that it is unlikely that a notice sent under subsection (2) or (3) would come to the attention of the person to whom it is to be sent,the council may effect service of the notice by—
  - (c) placing a copy of the notice in a newspaper circulating throughout the State; and
  - (d) leaving a copy of the notice in a conspicuous place on the land.
- (5) If the outstanding amount is not paid in full within the time allowed under subsection (2), the council may proceed to have the land sold.
- (6) The sale will, except in the case of land held from the Crown under a lease, licence or agreement to purchase, be by public auction (and the council may set a reserve price for the purposes of the auction).
- (7) The exception under subsection (6) relating to land held from the Crown will not apply if the Minister responsible for the administration of the *Crown Lands Act 1929* grants his or her consent to the sale of land by public auction.
- (8) An auction under this section must be advertised on at least two separate occasions in a newspaper circulating throughout the State.
- (9) If, before the date of such an auction, the outstanding amount and the costs incurred by the council in proceeding under this section are paid to the council, the council must call off the auction.
- (10) If—
  - (a) an auction fails; or
  - (b) an auction is not to be held because the land is held from the Crown under a lease, licence or agreement to purchase,the council may sell the land by private contract for the best price that it can reasonably obtain.

- (11) Any money received by the council in respect of the sale of land under this section will be applied as follows:
  - (a) firstly—in paying the costs of the sale and any other costs incurred in proceeding under this section;
  - (b) secondly—in discharging any liabilities to the council in respect of the land;
  - (c) thirdly—in discharging any liability to the Crown for rates, charges or taxes, or any prescribed liability to the Crown in respect of the land;
  - (d) fourthly—in discharging any liabilities secured by registered mortgages, encumbrances or charges;
  - (e) fifthly—in discharging any other mortgages, encumbrances and charges of which the council has notice;
  - (f) sixthly—in payment to the owner of the land.
- (12) If the owner cannot be found after making reasonable inquiries as to his or her whereabouts, an amount payable to the owner must be dealt with as unclaimed money under the *Unclaimed Moneys Act 1891*.
- (13) If land is sold in pursuance of this section, an instrument of transfer or conveyance (as appropriate) under the council's common seal will, on registration, operate to vest title to the land in the purchaser.
- (14) The title vested in a purchaser under subsection (13) will be free of—
  - (a) subject to subsection (14a), all mortgages, ~~and~~ charges and caveats; and
  - (b) except in the case of land held from the Crown under lease, licence or agreement to purchase—all leases and licences.
- (15) An instrument of transfer or conveyance in pursuance of a sale under this section must, when lodged with the Registrar-General for registration, be accompanied by a statutory declaration made by the chief executive officer of the council stating that the requirements of this section in relation to the sale of the land have been observed.
- (16) If it is not reasonably practicable to obtain the duplicate certificate of title to land that is sold in pursuance of this section (or other relevant instrument), the Registrar-General may register a transfer or conveyance despite the non-production of the duplicate (or instrument), but in that event will cancel the existing certificate of title for the land and issue a new certificate in the name of the transferee.
- (17) A reference in this section to land or title to land is, in relation to land held from the Crown under lease, licence or agreement for purchase, a reference to the interest of the lessee, licensee or purchaser in the land.
- (18) This section does not authorise the sale of non-rateable land on account of the non-payment of a service charge.
- (19) This section does not apply where the payment of rates has been postponed under, or in accordance with, another provision of this Act (until the postponement ceases to have effect or unless the rates become rates in arrears under the terms of the relevant



## PUBLIC LIGHTING POLICY

Responsible Manager: Manager Civil Assets

The Policy is being reviewed following Council's decision at the Council meeting held on the 28 June 2022.

The current policy position regarding the installation of light shields/glare visors requires the resident to pay the cost.

With the rollout of LED street lighting underway across our city, it is possible that there will be concerns about an increase in illumination and light spill.

Under the current policy position, residents are required to fund the installation of light shields.

Council may wish to consider options to address concerns about light spill and remove or reduce the financial impact on residents impacted by the transition to LED.

This is intended to be a first discussion of this policy in relation to the installation of light shields and as such, no changes to the policy document have been presented at this stage.

The committee will benefit from some discussion as to potential impacts of any policy change and some benchmarking information from other councils who have installed new street lighting.

## RECOMMENDATION

That the “Public Lighting Policy” **as discussed by** the Governance and Policy Committee on 25 July 2022 **be returned to the** “Governance and Policy Committee” for consideration.

Summary of changes		
Page No.	Heading	Comments
3	2.3 Requests for Light Shields	Comments added to reflect risks and financial impacts. Further information has been sought from SA Power Networks and may be available at the GPC meeting.
3	2.4.1 Light Outages/ Street Lights	Revised sentence to improve grammar
6	5. STRATEGIC PLAN/POLICY	Amended to incorporate current Strategic Plan objectives.
Changes during or after GPC Meeting for Council Meeting [date]		

Supporting Information

#### Attachments

1. [Public Lighting Policy - revised version for GPC of 6 July 2022](#) .....27

# Public Lighting Policy



Record number	D22/46851
Responsible Manager	Gabby D'Aloia
Other key internal stakeholders	Building Assets, Customer Relations
Last reviewed	23/06/20
Adoption reference	
Resolution number	
Previous review dates	
Legal requirement	
Due date next review	2025

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## 1. PURPOSE

This Policy aims to:

- a. Establish clear principles for the provision of public lighting to promote the safe movement of vehicles and pedestrians at night
- b. Provide guidance in relation to the standard and types of lighting to be provided within the Council area, which take into account the streetscape, heritage and design of the area
- c. Ensure new lighting installed is in accordance with relevant Australian Standards and Guidelines.
- d. To consider energy efficiency, whole of life costs and environmental sustainability in relation to selection of public lighting within the City.

## 2. POLICY

### 2.1 General

Council aims to achieve the following outcomes through the management of its public lighting infrastructure:

- a. Provide a well-lit environment that enables the safe and comfortable movement of vehicular and pedestrian traffic at night
- b. Effectively manage public lighting so that the electricity costs and carbon footprint are minimised
- c. Ensure that new lighting assets within the Council area take into account the streetscape, heritage and design of the area, and are installed in accordance with relevant Australian Standards and Guidelines. To achieve these outcomes council will endeavour to, where practical:
  - I. Address streets identified as non-compliant to AS/ NZS 1158 requirements, replacing existing luminaires with energy efficient LED luminaires.
  - II. Progressively upgrade all other luminaires with energy efficient LED luminaires.
  - III. Undertake regular energy audits to monitor energy costs and amounts of CO2 emissions.
  - IV. Undertake tree assessments to ensure effectiveness of lighting to standards.
  - V. Ensure that any new lighting assets installed within the Council area are consistent with the streetscape, heritage and design of the area.
  - VI. Ensure that any new lighting installed is in accordance with relevant Australian Standards and Guidelines.
  - VII. Endeavour to ensure that new lighting installed in public places does not detract from the landscape amenity, and minimises impact to local residents where practicable.

### 2.2 Provision Priority and Lighting Requests

Priority for lighting requests will be given to addressing non-compliant street lighting in the first instance.

New lighting priority will also be given to upgrading lighting within the rest of the council area, with areas having the highest anticipated energy savings being undertaken first.

Street lights are not intended for home security. Council will not upgrade street lighting to improve the security of private property, however, options that the property owner can take (e.g. sensor lights) can be recommended to enquirers.

Upgrades of lighting may also be brought forward to coincide with other streetscape or capital works where practical, and where budget allows.

Reserves, footpaths and cycle tracks will only be lit where there is high night-time use, evidence of crime issues and no alternative routes available.

## 2.3 Requests for Light Shields

Requests for Aeroscreen visor fittings on existing lights to limit light spillage will be considered on a case by case basis. Where the public lighting meets standards and an Aeroscreen is requested for aesthetic reasons, residents may be required to cover, or contribute to, the cost of installation. Visors will not be provided where their installation would result in lighting no longer being compliant with AS1158.

## 2.4 Light Outages

### 2.4.1 Street Lights

Report streetlight faults to SA Power Networks online or telephone 1800 676 043 or 13 13 66.

Generally, to report a faulty street light, visit [www.sapowernetworks.com.au/slo](http://www.sapowernetworks.com.au/slo) to use their online reporting system.

Online street light fault reporting combines SA Power Networks street light data with Google maps to provide you with an easy way to notify SA Power Networks when and where a street light is in need of repair.

~~You can search for the~~ Street lights can be searched using this site in a number of ways, including:

- by street (e.g. 1 Smith Street, Tea Tree Gully),
- by intersection (e.g. CNR of Smith Street and John Street),
- by landmark/point of interest (e.g. Art Gallery of SA), or
- by train/bus/tram stop (e.g. stop 5, Smith Street).

Zooming in on the map will display available lights to be reported as green circles and reported lights as red diamonds.

Click on a green circle to report it and complete your details in the online reporting form. You can also elect to receive a text message when the job has been attended by ticking the 'send me an SMS on job completion' box.

SA Power Networks aims to repair street lights which have gone out and for which they are responsible within five (5) business days in the Adelaide metropolitan area.

#### Commented [DG1]:

The current process with the bulk roll-out of LED lights, is to refer enquires and concerns to SA Power Networks.

If SA Power Networks deem that a shield can be installed, without compromising road and pedestrian safety, Council staff offer the modification to the property owner, at their cost.

A light shield may not completely satisfy a property owner's experience or perception of brighter road lighting and light spill.

If the policy is changed so that Council funds the modification, it is likely to result in an increase in the number of modified light fittings and potentially have a considerable impact on Council's budget.

A new process to measure, assess and consider lighting nuisance applications would require some form of assessment criteria, skills, training and equipment to consider customer requests and this would come at some cost / staff resource implication which cannot be forecast at this stage.

An absence of assessment criteria could lead to a large number of requests being approved or alternatively all reasonable (subjective) requests for a light shield may need be approved.

A relatively small budget provision could be accommodated within the bulk roll-out of LED lighting to retrofit light shields into LED light fittings.

The cost of installing a light shield is approximately \$700 per light.

It is difficult to predict the funding required if Council accepts responsibility to fully fund the installation of light shields. Having the adjoining property owner or resident contribute / cost share would be one option to reduce the number of requests made for shields given we have over 8,000 LED lights being rolled out in the next few years.

Benchmarking public lighting policies with other councils who have installed LED street lighting will be beneficial to inform the policy review discussion.

#### 2.4.2 Council Owned Lights

Reports for faults to Council owned lights such as reserve lighting, sports lighting and public carpark lighting should be made to Council's Property Maintenance Department either online via Council's website, in person or via 8397 7444.

An exact location and pole number (if available) should be provided to assist with attending officer locate the faulty light.

Council aims to assess all faulty lights within 5 business days and repair them within 30 business days, subject to the type of fault and availability of required parts.

Larger infrastructure faults (e.g. cable faults) that require re-design or extensive excavation works will require longer repair timeframes depending on the extent of works required.

### 3. DEFINITIONS

#### Category 'V' Lighting

Category 'V' lighting applies to vehicular traffic on major roads. The Australian Standard AS/NZS 1158.1.1- lighting of major roads focuses on visibility requirements for the motorist. A major road is an arterial or highway.

#### Category 'P' lighting

Category 'P' lighting is applicable to minor roads, car parks and public spaces where the visual requirements of pedestrians and cyclist movements rather than motor vehicles are dominant. Minor roads are local roads and collector roads that carry a low volume of traffic. Lighting should provide a sense of security, adequate visibility and deter improper behaviour. Australian Standard AS/NZS 1158.3.1 relates to the requirements for P category lighting.

#### Public Lighting

'Public Lighting' in the context of this policy refers to external lighting located in the public realm in a road reserve or on other public land, but excluding reserves and sporting facilities. In relation to this policy, public lighting relates to lighting which is the responsibility of Council, whether owned by Council, or provided by another organisation on behalf of Council, within the Council area. It does not relate to street lighting provided by the Department of Planning, Transport and Infrastructure.

#### Street Lighting

Street lighting refers to lighting that is operated and maintained by SA Power Networks through a tariff arrangement. This lighting is generally unmetered with energy cost being calculated via time of operation and power output.

#### Council Owned Lighting

'Council owned lighting' refers to Lighting that is on Council property that is not connected to the SAPN street lighting network and is fed from its own power supply and meter. Lighting such as reserve lighting, car park lighting and sports field lighting are common examples of Council owned lighting infrastructure

**Public Lighting Assets**

'Public Lighting Assets' means all assets which are dedicated to the provision of public lighting, including lamps, luminaires, mounting brackets, and poles on which the fixtures are mounted, supply cables and control equipment.

**Aeroscreen visor**

'Aeroscreen visor' is a visor affixed to a luminaire to minimise light spill. Visors are typically not required for new LED lights, which provide more directional light than traditional counterparts.

**LED Lighting**

'LED Lighting', refers to light-emitting diode (LED) which is a semiconductor device that emits visible light when an electric current passes through. These lights typically consume much lower energy and emit lower greenhouse gases to the environment.

**Non-compliant streets**

'Non-compliant Streets' means the streets that do not meet the lighting standard AS/NZS 1158 requirements.

**Smart Technology**

'Smart Technology' refers to integrating the use of technology solutions to the management of the city's assets to enhance quality, performance or interactivity of these assets. Smart technology can optimise energy consumption through automatic adjustment of lighting output to variable environmental factors such as weather conditions.

**CEO**

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

## 4. LEGISLATIVE FRAMEWORK

*Local Government Act, 1999*

*Development Act, 1993/4.1*

*Work Health and Safety Act (SA), 2012*

*Environmental Protection Act, 1993*

*Pollution Control Act, 1993*

*Essential Services Commission Act 2002 (SA)*

*Electricity Act 1996 (SA)*

*Disability Discrimination Act 1992*

*Road and Traffic Act 1961*

### 4.1 Other references

External document including:

- a. AS/NZS 1158 Lighting for roads and other public spaces
- b. AS 3000 Electrical Installations
- c. AS 4282 Light Pollution

## 5. STRATEGIC PLAN/POLICY

### 5.1 Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:

Objective	Comments
<b>Environment</b>	
<i>The carbon footprint of our city is reduced through the collective efforts of community and Council, including businesses</i>	<u>LED lighting is energy efficient, thereby reducing the carbon footprint.</u>
<i>We are resilient to climate change and equipped to manage the impact of extreme weather events</i>	<u>Reducing the carbon footprint by using less energy is important in combating climate change.</u>
<b>Places</b>	
<i>Streets, paths, open spaces and parks are appealing, safe and accessible</i>	<u>Lighting is provided to improve road and pedestrian safety.</u>
<b>Leadership</b>	
<i>Delivery of services is sustainable and adaptable</i>	<u>Sustainable lighting provision through LED technology, resulting in longer asset life and sustainable energy savings.</u>

### 5.2 Organisation Plan

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

## 6. POLICY IMPLEMENTATION

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



## ROAD ALTERATION OR ENCROACHMENT POLICY

Responsible Managers: Manager Civil Assets, Group Coordinator Civil and Building Projects

The Policy is being reviewed as part of the policy review cycle.

**The existence of this Policy assists in limiting Council's liability (risk, maintenance, replacement, etc.) against any future claims arising due to alterations, encroachments or permits.**

There are no significant changes proposed with this policy.

### RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

**That the "Road Alteration or Encroachment Policy" as reviewed by the** Governance and Policy Committee on 25 July 2022 be adopted.

OR

That the **"Road Alteration or Encroachment Policy" as reviewed by** the Governance and Policy Committee on 25 July 2022 be adopted.

OR

That the “Road Alteration or Encroachment Policy” **as reviewed by** the Governance and Policy Committee on 25 July 2022 **be returned to the** “Governance and Policy Committee” for consideration.

Summary of changes		
Page No.	Heading	Comments
1	Responsible Managers	Added Group Coordinator Civil and Building Projects
1	Other Key Internal Stakeholders	Asset Protection Officer
6	2.6 General	<p><b>Added “Where an application is refused, the applicant will be provided the reasons for the refusal.” – provides justification and transparency.</b></p> <p>This gap was identified in an Internal Review as an Improvement Opportunity.</p>
Changes during or after GPC Meeting for Council Meeting [date]		

Supporting Information

#### Attachments

1. [Road Alteration or Encroachment Policy - reviewed version for GPC - 6 July 2022](#) .35

# Road Alteration or Encroachment Policy



Record number	D22/24819
Responsible Managers	Manager Civil Assets <del>Group Coordinator Civil and Building Projects</del>
Other key internal stakeholders	Director Assets & Environment Director Community & Cultural Development Manager Finance & Rating Services <del>Asset Protection Officer</del> <del>Supervisor Civil Operations</del> <del>Group Coordinator Civil and Building Projects</del> Manager City Development Manager Parks Community Safety Leader Manager City Strategy
Last reviewed	
Adoption reference	
Resolution number	
Previous review dates	16/6/21, 24/09/19, 10/07/2018, 28/02/2017 (Merges Use of a Road for a Business Purpose (Permit) Policy), 28/04/15, 16/05/12, 12/08/08, 8/4/08, 9/10/07
Legal requirement	<del>NANil</del>
Due date next review	2025

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## 1. 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, encroachments or permits.

## 2. 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 may be guilty of an offence under section 221 or 222 of the *Local Government Act 1999 (the Act)*. In addition to removing any unauthorised encroachment or alteration to a road, Council reserves its right to prosecute the person(s) responsible for the unauthorised encroachment or alteration and/or in the case of the unauthorised use of a road for business purposes, to expiate 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.

### 2.1 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 that must be taken into account by the Act 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:

- a. Unduly obstruct the use of the road
- b. Unduly interfere with the construction of the road
- c. Have an adverse effect on road safety
- d. 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.

## 2.2 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:

- a. 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.
- b. 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).

## 2.3 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:

- a. The alteration or encroachment may be required to be removed by Council or;
- b. 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 out in this policy.

## 2.4 Classification of Alterations or Encroachments

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

### 2.4.1. 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):

- a. Standard in ground concrete (or otherwise surfaced) pedestrian access ways to premises (not driveways)
- b. Landscaped areas and gardens adjoining residential premises that do not hinder public use of the roadway for its intended purpose
- c. A verge garden that is planted and managed by one or more adjacent households and may include edible plants and produce.
- d. Hardstand areas up to one square metre
- e. Resident funded private parking bays (maximum of two car spaces) for residential purposes.

Rating

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.

#### 2.4.2 Type 2

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

- a. Crossing Places
- b. Stormwater pipe connections
- c. 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.

##### Rating

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.

#### 2.4.3 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):

- a. Above ground access stairs or ramps
- b. Monitoring Bores for commercial purposes
- c. Hardstand areas of one (1) to five (5) square metres
- d. Handrails
- e. 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
- f. Other alterations or encroachments that do not require approval under the Development Act 1993
- g. 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):

- a. 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
- b. Business use permits cannot be for a period of five (5) years or more (section 222)
- c. 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).

**Rating**

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.

**2.4.4 Type 4**

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

- a. Fenced areas
- b. Hardstand areas greater than five (5) square metres, which may include parking for vehicles
- c. Alterations or encroachments that require approval under the Development Act 1993
- d. Private parking bays (more than two (2) car spaces) for commercial purposes, or for residential purposes (resident funded)
- e. Extensions of private businesses onto public roads that require alterations to the road
- f. Retaining walls 600mm (or greater than) in height.
- g. Verandahs, awnings and pergolas
- h. Under awning advertisements/ signs
- i. Architectural features and public art
- j. Other above ground encroachments.

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).

**Rating**

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.

**2.5 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.

## 2.6 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:
  - a. Extent
  - b. Location relative to the applicants property i.e. is it adjoining the applicants land
  - c. Type
  - d. Potential effect on pedestrian or vehicular access
  - e. Potential to generate a financial risk (e.g. maintenance, replacement etc.) or public liability risk for Council
  - f. Restriction of public space
  - g. Safety risk
  - h. Impact on amenity
3. Before the Council authorises the erection or installation of a structure on a road, Council must give consideration to whether the structure will:
  - a. Unduly obstruct the use of the road
  - b. Unduly interfere with the construction of the road
  - c. Have an adverse effect on road safety
  - d. and this must be evidenced in the appropriate approval documentation
- ~~4.~~ 4. Where an application is refused, the applicant will be provided the reasons for the refusal.
- ~~4.5.~~ 4.5. Successful applicants must enter into an appropriate agreement with Council, depending on the type of alteration or encroachment
- ~~5.6.~~ 5.6. All work undertaken must comply with the sketch or plan submitted as a part of the application and meet all relevant standards
- ~~6.7.~~ 6.7. Work cannot commence prior to a permit or approval being issued
- ~~7.8.~~ 7.8. All costs associated with the installation and maintenance of the approved works will be borne by the applicant
- ~~8.9.~~ 8.9. The applicant must maintain all approved works in good condition
- ~~9.10.~~ 9.10. 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
- ~~10.11.~~ 10.11. 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
- ~~11.12.~~ 11.12. 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
- ~~12.13.~~ 12.13. 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
- ~~13.14.~~ 13.14. If the permit holder wishes to alter the approved alteration or encroachment at any time, a new application will need to be made



- ~~14.15.~~ 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
- ~~15.16.~~ 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
- ~~16.17.~~ 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.

## 2.7 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):

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 (verge). Council will not issue such a permit unless it is satisfied that the proposed vegetation will not have an adverse effect on public safety and impact negatively on public infrastructure.

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 relevant permit.

Further considerations for vegetation related alterations include:

- a. Any proposed planting must not compromise the health of any existing street trees or other Council plantings
- b. Any landscape work must not have any raised hazardous edges or tripping hazards
- c. Trees and shrubs with potential large branches should not be planted close to fences or other infrastructure so as to cause future damage
- d. Plants should not be located as to create restricted lines of sight, which could be hazardous to pedestrians or motorists
- e. Corner properties may require special consideration for line of sight requirement
- f. 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
- g. 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](http://www.dialbeforeyoudig.com.au)
- h. Any existing street tree must not be removed or pruned without approval

- i. 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)
- j. Any planted areas are to be kept free of weeds
- k. Any planted or improved areas must be kept free of produce on the ground to minimise slipping hazards and attraction of vermin
- l. Council may issue instructions relating to the management of planted verges in required by any relevant state government authority (e.g. fruit fly control, biosecurity issues, etc)
- m. Usage of chemicals and poisons on public areas must be limited to readily available retail products that are recommended for use with edible produce.
- n. Overhanging vegetation is to be maintained and is not to encroach into any walkways or road carriageway areas
- o. Any pavers used must be 60mm thick, made from concrete or clay and have a non-slip surface
- p. The pavers must be laid on a base of 100mm quarry rubble by a tradesperson who has adequate Public Liability insurance
- q. 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
- r. Parking of vehicles is not permitted on any paved, rubble or dolomite areas, unless approval has been granted to allow this activity
- s. 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.
- t. Council will not undertake any policing where edible plants and produce, which are grown on the verge, are accessed by other person(s).
- u. New applications for plastic or artificial turf or grass will not be approved
- v. Private parking bays
  - i. Council may approve the construction of parking bays subject to the following conditions:
  - ii. The parking of a vehicle in the allocated parking bay does not impair sight distance on bends or intersections
  - iii. The approved parking bay is maintained at the applicant's expense in accordance with Council specifications (appropriate Australian Standards and Codes)
  - iv. Any parking bay on a road verge is available for public use and is not an exclusive parking bay for the permit holder.

## 2.8 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 Department for Infrastructure and Transport (DIT) prior to Council issuing any approval for a licence on a main road under the authority of DIT 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.

## 2.9 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:
  - a. 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
  - b. 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, the applicant is responsible for arranging the removal and all costs incurred.

## 2.10 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 Council's 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.

## 2.11 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.

## 2.12 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):

1. 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.
2. Note: A permit under section 222 cannot be granted for a period exceeding five (5) years.
3. 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.
4. Approval will be sought from the DIT prior to Council issuing any approval for a licence on a main road under the authority of DIT 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.
5. Standard conditions must include at least the following:
6. Appropriate indemnity and insurance impositions to protect the interests of Council
7. If the fee is not paid or the conditions not met, Council will have the right to cancel the permit
8. Removal of the structure at the applicants cost at the end of the term
9. Consideration to whether the structure will:
  - a. Unduly obstruct the use of the road
  - b. Unduly interfere with the construction of the road
  - c. Have an adverse effect on road safety and this must be evidenced in the appropriate approval documentation.

## 2.13 Fees

Fees will be charged according to the following table:

Type of Alteration or Encroachment	Applicable Annual Licence Fee
Type 1	No application fee, or \$1 (if demanded)
Type 2	Application fee in accordance with Council's Fees and Charges Register
Type 3	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 s222 annual fee.
Type 4	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.

## 2.14 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.

## 3. DEFINITIONS

For the purposes of this policy the following definitions apply:

### Act

Local Government Act 1999

### Alterations or Encroachments

Any structure or Vegetation that extends into a public street or road or is positioned in a public street or road.

### CEO

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

**City**

The geographic area covered by the Council

**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.

**DIT**

Department for Infrastructure and Transport

**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 water table, 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. 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;
- b. an average circumference of 625 millimetres or more, measured at a point one(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.

**Vegetation**

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

#### 4. LEGISLATIVE FRAMEWORK

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

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:

- a. To carry out specified work by way of maintenance or repair
- b. 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:

- a. Unduly obstruct the use of the road
- b. Unduly interfere with the construction of the road
- c. Have an adverse effect 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:

1. Whether the vegetation is appropriate to the proposed site, taking into account:
  - a. Environment and aesthetic issues
  - b. 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)
  - c. Road safety matters
  - d. Other matters (if any) considered relevant by Council
2. 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.

## 4.1 Other references

Council's documents including:

- a. Application to Construct, Remove or Repair a Crossing Place, Stormwater Pipe & Connection to Kerb (Form)
- b. Application to Install an Underground Electrical Service within a Council Road (Form)
- c. Permit to Landscape a Road Verge within a Council Road (Form)
- d. By-Law No.2 – Roads, addresses alterations and encroachments over public streets and roads
- e. Fees and Charges Register
- f. Guideline for the Approval of an Underground Electrical Service Installation
- g. Records Management Policy and Procedures
- h. Tree Management Policy

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



External documents including:

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

## 5. STRATEGIC PLAN/POLICY

### 5.1 Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:

Objective	Comments
<b>Community</b>	
<i>People feel a sense of belonging, inclusion and connection with the City and the community</i>	Landscapes and verge gardens enhance the visual appeal of a property and may create a sense of inclusion and connection with the community.
<b>Environment</b>	
<i>We are resilient to climate change and equipped to manage the impact of extreme weather events</i>	The greening of verges help reduce the heat island effect
<b>Places</b>	
<i>Streets, paths, open spaces and parks are appealing, safe and accessible</i>	The approval process ensures road alterations do not unduly obstruct the road and maintain safe access for all road users. The greening of verges will complement the appeal and mobility around our City.
<i>Infrastructure and community facilities are fit for purpose, constructed using sustainable practices and well maintained</i>	

### 5.2 Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on four key themes of organisational excellence. The themes most relevant to this report are: Customer Care; ; Future Capability; Sustainable Operations.

## 6. 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.



City of Tea Tree Gully  
Governance and Policy Committee  
Document Cover Sheet

25 JULY 2022

TEMPORARY ROAD CLOSURES FOR EVENTS ON COUNCIL ROADS  
POLICY

Responsible Managers: Manager Civil Assets, Manager Customer and Communications

The policy is being reviewed as part of the policy review cycle and outlines the conditions that must be met by an applicant for Council to consider a temporary road closure for an event.

There are no significant changes proposed.

RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

**That the “Temporary Road Closures for Events on Council Roads Policy  
” as reviewed by the** Governance and Policy Committee on 25 July 2022 be adopted.

OR

That the “Temporary Road Closures for Events on Council Roads Policy  
” **as reviewed by** the Governance and Policy Committee on 25 July 2022 be adopted.

OR

That the “Temporary Road Closures for Events on Council Roads Policy” **as reviewed by** the Governance and Policy Committee on 25 July 2022 be returned to **the “Governance and Policy Committee”** for consideration.

Summary of changes		
Page No.	Heading	Comments
1	Responsible Managers	Added Manager Customer and Communications
2	Policy	Ref Department for Infrastructure and Transport
4	5.1 Strategic Plan	Ref updated Strategic Plan
Changes during or after GPC Meeting for Council Meeting [date]		

Supporting Information

#### Attachments

1. [Temporary Road Closures for Events on Council Roads Policy - GPC - 6 July 2022](#) . 52

# Temporary Road Closures for Events on Council Roads Policy



Record number	D22/24829
Responsible Managers	Manager Civil Assets <u>Manager Customer and Communications</u>
Other key internal stakeholders	Director Assets & Environment
Last reviewed	
Adoption reference	
Resolution number	
Previous review dates	16/10/19, 18/01/17, 10/12/13, 19/01/10, 10/10/06, 25/02/03, 13/03/01
Legal requirement	<u>N/A Nil</u>
Due date next review	2025

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.

## 1. PURPOSE

The purpose of this policy is to establish guidelines for temporary road closures on Council managed roads within the City of Tea Tree Gully.

This policy outlines the conditions that must be met by the applicant(s) for Council to consider the application for approval.

## 2. POLICY

From time to time, Council receives requests to close a road in order to hold an event on a public road.

Council supports the principle of residents meeting socially and enhancing community spirit, therefore Council will assist where reasonably possible but not to the extent that direct costs of establishing the road closure are funded by the broader community.

At least two weeks before the event, Council must notify:

- a. The Commissioner of Highways
- b. The Commissioner of Police
- c. SA Metropolitan Fire Service
- d. SA Country Fire Service
- e. SA State Emergency Service
- f. SA Ambulance Service
- g. Public Transport Services Division of the Department ~~for Infrastructure and Transport~~ for Infrastructure and Transport Planning, Transport and Infrastructure

Applications for a temporary road closure may be approved by the CEO subject to the following conditions:

- a. Applicants arranging for a road closure should meet the associated costs
- b. The application to temporarily close a road to facilitate an event is received by Council at least one month prior to the proposed event
- c. All traffic control devices must be installed in accordance with Traffic Management Plans prepared by a person who in the opinion of the Council, has an appropriate level of knowledge and experience in the preparation of Traffic Management Plans.
- d. An Event Management Plan (where required) must comply with the requirements of regulation 6 of the *Road Traffic (Miscellaneous) Regulations 2014*
- e. The applicant must provide evidence that the event is supported by at least 75% of the owners and occupiers of properties affected by the closure
- f. The applicant must provide evidence of public liability insurance to a level that is consistent with advice supplied by Council's insurers and thus indemnifying Council from any claims that may arise from the event
- g. At least two clear days before the event, the Council must, at the cost of the applicant, advertise the event as prescribed in the Road Traffic Regulations
- h. Where the event requires intervention by the Department ~~for Infrastructure and Transport~~ for Infrastructure and Transport Planning, Transport and Infrastructure to ensure the safe and efficient management of traffic, Council or the event organiser must notify the Traffic

Management Centre at least 15 minutes before the event and immediately on completion of the need for such intervention.

- i. Liquor Licence applications will be managed in accordance with Council's Liquor Licence Application Management Policy
- j. The road is left free from obstructions and litter
- k. Any damage to Council property must be reported to Council and the applicant may be liable for any damage to Council property arising from the event
- l. Any other reasonable condition(s) deemed appropriate by the relevant Council Officer.

Any applications that fall outside of the above mentioned criteria may be refused by the CEO or referred to Council for further consideration.

In addition to road closures, the Minister has also delegated to Council the power to make orders directing that persons taking part in the event be exempted from some road rules relating to pedestrian behaviour on roads (Subject to obtaining the prior approval of the Commissioner for Police).

### 3. DEFINITIONS

For the purposes of this policy the following definition applies.

#### Event

An organised sporting, recreational, political, artistic, cultural or other activity, and includes a street party.

### 4. LEGISLATIVE FRAMEWORK

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

The following legislation applies to this policy:

#### [The Road Traffic Act 1961](#)

Section 33 of the Act confers power upon the Minister to close any road (or part of a road) for the purposes of an event and to exempt persons from compliance with prescribed road laws in relation to the event.

Under clause G of the Minister's "Instrument of General Approval and Delegation to Council – Use of Traffic Control Devices, Road Closure and Granting of Exemptions for Events" dated 22 August 2013, the Minister has delegated this power to Council and in turn Council has sub delegated the power to the Chief Executive Officer.

#### [The Road Traffic \(Miscellaneous\) Regulations 2014](#)

Part 2, Division 2 of the Regulations relate to the relevant requirements for a road closure.

The Regulations contain the requirements for:

- a. Event Management Plans (including consultation)
- b. Advertisements
- c. Information to be kept available by Council

#### 4.1 Other references

Council's documents including:

- a. [Fees and Charges Register](#)
- b. [Liquor Licensing Application Management Policy](#)

External documents including:

- a. Australian Road Rules
- b. Road Traffic Act 1961
- c. Road Traffic (Miscellaneous) Regulations 2014
- d. Minister's "Instrument of General Approval and Delegation to Council – Use of Traffic Control Devices, Road Closure and Granting of Exemptions for Events"
- e. Guidelines for Approving Events on SA Roads (Government of South Australia)
- f. Australian Standard AS1742 – Manual of uniform traffic control devices

### 5. STRATEGIC PLAN/POLICY

#### 5.1 Strategic Plan

Objective	Comments
<b>Community</b>	
<i>People feel a sense of belonging, inclusion and connection with the City and the community</i>	<u>Events create a sense of belonging, inclusion and connection</u>
<b>Places</b>	
<i>Opportunities exist to express and experience art and culture</i>	<u>Events may include art and cultural experiences</u>

#### 5.2 Organisation Plan

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

### 6. POLICY IMPLEMENTATION

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



City of Tea Tree Gully  
Governance and Policy Committee

Document Cover Sheet

25 JULY 2022

## CONTROL OF ELECTION SIGNS POLICY

Responsible Manager: Manager Community Safety

The Control of Election Signs Policy has been reviewed as a result of changes the Local Government Act 1999. In November 2021, the commencement of section 115 of the Review Act (which amended section 226 of the Local Government Act) came into effect which resulted in Electoral Advertising Posters relating to Local Government Elections to be prohibited to be affixed to stobie poles, traffic signs, trees or other items along a public road.

Electoral advertising poster includes a poster displaying electoral advertising made of corflute or plastic.

A public road is defined in the Local Government Act usually includes the area between a kerb and property boundaries, such as footpath.

Significant changes have been made to the Control of Election Signs Policy. The purpose of these changes is to reflect the change in legislation and ensure the policy is aligned to the legislation **and Council's recently updated By-laws**, specifically By-law 5 - Moveable Signs.

Council Officers have sought legal advice relative to these changes to ensure alignment has occurred.



## RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

**That the “Control of Election Signs Policy” as reviewed by the** Governance and Policy Committee on 25 July 2022 be adopted.

Summary of changes		
Page No.	Heading	Comments
All	Whole document	Formatting and layout of policy amended to reflect updated template.
2	Purpose	<b>Clarification of the definition of Road to ‘public Road’ for the interpretation of this policy.</b>
2	Purpose	<b>As per legal advice, addition of ‘relating to a State or Federal Election’ to clarify an exclusion from the policy.</b>
2	Policy Item 2.1	As per legal advice, changes to the wording of the <b>section ‘Election Signs on SA Power Networks (SAPN) or Department for Infrastructure and Transport (DIT) equipment of infrastructure’ to clarify the applications of the Instruments of General Approval and their application to State and Federal Elections only (previously also applied to Local Government Election Signs).</b>
3	Policy Item 2.2	Addition of requirement of written Council consent for any election sign displays that may be allowable and information on a breach of this requirement under Section 23(1) of the <i>Local Nuisance and Litter Control Act 2016</i> .
3, 4, 5	Policy Item 2.3 & 2.4	Updated terms and conditions where written Council consent has been provided. Further clarity provided on where signs cannot be erected or attached to.
5	Policy Item 2.6	Election Signs on Private or Third-Party Property amendments to clarify requirements of erecting Signs on private or third party property.
5,6	Policy Item 2.7 & 2.8	Illegal Signs and Removal and disposal of election signs, was previously all under the subheading of Illegal signs.

		<p>Addition of information relative to consent and the applicable legislation.</p> <p>Insertion of the removal and disposal of election signs subheading and content. Clearer direction for Council in relation to signs that poses a public safety concern or risk.</p>
6	Policy Item 2.9	Addition of notification that further conditions (additional to those outlined in the policy) may be attached to any approval provided by Council.
8	Definitions Item 3	<p>Updates to the definition of: Election Period; Election; Road; and Signs for the purpose of consistency with relevant legislation.</p> <p>Addition definition for: Instruments of General Approval.</p>
9	Legislative Framework Item 4	<p>Changes to the Sections relevant of the <i>Local Government Act 1999</i>.</p> <p>Insertion of the relevant section of the <i>Local Nuisance and Litter Control Act 2016</i>.</p> <p>Deletion of the <i>Development Act 1993</i> and <i>Development Regulations 2008</i> and associated sections as repealed legislation.</p> <p>Insertion of the <i>Planning Development and Infrastructure Act 2016</i> and <i>Planning, Development and Infrastructure (General) Regulations 2017</i> (replace Development Act and Regulations).</p> <p><b>Insertion of the word 'State' in the comments under Electoral Act 1985.</b></p> <p>Insertion of comment under <i>Commonwealth Electoral Act 1918 (Cth)</i>.</p> <p>Insertion of the <i>Local Government Land By-Law 2021</i> and <i>Moveable Signs By-Law 2021</i>.</p>
Changes during or after GPC Meeting for Council Meeting [date]		

Supporting Information

Attachments

1. [!\[\]\(71789413fda590c25fb70c06ff95e8d0\_img.jpg\)](#) Control of Election Signs Policy - Reviewed version for GPC - 6 July 2022..... 60

# Control of Election signs Policy



Record number	D22/496313677
Responsible Manager	Manager Community Safety
Other key internal stakeholders	Director Community & Cultural Development
Last reviewed	6 July 2022
Adoption reference	Governance and Policy Committee
Resolution number	
Previous review dates	19/08/20, 29/08/17, 12/08/14, 08/04/14, 09/10/12, 12/08/08, 08/04/08, 23/01/07, 25/07/06, 30/05/06, 25/02/03, 13/03/01
Legal requirement	NA
Due date next review	2023/2025

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## 1. PURPOSE

The purpose of this policy is to state Council's position in regard to the placement of election Signs within the City. The existence of this policy will assist to minimise any negative impact on the overall amenity and atmosphere of the City, by ensuring that election Signs are appropriate, of good quality and placed in the correct manner.

The requirements established in this policy will be applied consistently and equitably to all political parties and candidates.

This policy does not apply to free standing moveable Signs that are placed on a [public Road relating to a State or Federal Election](#), since such Signs may be placed without authorisation.

## 2. POLICY

### 2.1 Election Signs on SA Power Networks (SAPN) or Department for Infrastructure and Transport (DIT) equipment or infrastructure

~~SAPN and DIT (the Relevant Authorities) own the relevant infrastructure installed on Roads (ie light poles, stobie poles) and permission of the Relevant Authorities is required to display a moveable sign on their infrastructure. The Relevant Authorities have, by way of adopting Instruments of General Approval, granted their permission for Signs to be affixed to their equipment or infrastructure subject to various conditions. The 'Guidelines & General Approval for the Placement or Affixation of Election Signs—For Federal, State and Local Government Elections Referenda and Polls' operate to provide a General Approval to authorise the placement or affixation of Signs, advertising candidates for election, on a Road or onto infrastructure on a Road owned by the Relevant Authorities.~~

SA Power Networks (SAPN) and the Department for Infrastructure and Transport (DIT) (the Relevant Authorities) own the infrastructure installed on public Roads (i.e., light poles, stobie poles).

This means that the permission of the Relevant Authorities is required to display any moveable sign on their infrastructure. The Relevant Authorities have, by way of adopting Instruments of General Approval, determined to grant their permission for moveable signs to be affixed to their infrastructure subject to various conditions. The Relevant Authorities have authorised SA Councils (including Council) to regulate the display of moveable signs on their infrastructure (including by way of enforcing compliance with these conditions). Accordingly, the Instruments of General Approval apply throughout the Council's area.

Provided that the requirements of ~~these Guidelines~~ the Instruments of General Approval are fully complied with, it is not necessary to make application to the Council or Relevant Authorities for permission to display election Signs related to State and Federal elections or referenda. This does not apply to local government election signs as they are prohibited from being displayed on public roads, or on equipment or infrastructure on public road.

## 2.2 Election Signs on Council equipment or infrastructure

Written Council consent is required before an election sign may be displayed on a structure or infrastructure on land that is either owned or under the care and control of Council (other than a public Road).

A person who posts a bill (including a Sign for an Election) on such Council property without Council's consent commits an offence against Section 23(1) of the *Local Nuisance and Litter Control Act 2016*.

Where Council consent is given for Signs in Elections, the following terms and conditions must be complied with.

## 2.3 Signs must:

1. Not be more than one (1) square metre in area, except at a place designated as a polling place for a Federal or State Election or Referenda on polling day only
- ~~2. Places designated as polling booths/places for Australian and State Elections and Referenda will not be subject to this requirement on polling day only~~
- ~~3.2.~~ Only be displayed, in the case of State and Australian Federal Elections during the period commencing at 5.00pm on the day before the issue of the writ or writs for the election and ending at the close of polls on polling day. Should they not be removed within two days (48 hours of the close of voting) they will be considered illegal Signs/posters and Council will implement the provisions of this policy (refer to section "Illegal Signs")
- ~~4.3.~~ Only be displayed, in the case of local government Elections, during the period commencing four (4) weeks immediately before the date set for polling day and ending at the close of voting on polling day. Signs are to be removed within two (2) days (48 hours of the close of voting) otherwise they will be considered illegal Signs/posters and Council will implement the provisions of this Policy (refer to section "Illegal Signs") (noting that, election signs relating to local government elections are prohibited from being displayed on public roads or assets or infrastructure on public roads)
- ~~5.4.~~ Comply with all legislative requirements relating to the publication of 'electoral material' as defined in the relevant legislation
- ~~6.5.~~ Be securely fixed or posted and maintained in good repair and condition at all times
- ~~7.6.~~ Be designed, made, and presented in a quality manner (the intent is that Signs will remain intact and not become a danger to Road users or end up as litter)
- ~~8.7.~~ Contain clear and legible writing or symbols. An authorised officer will determine whether a sign is clear and legible for these purposes
- ~~9.8.~~ Contain on the face of the Sign, the name, phone/email and address of both the person authorising the electoral material and the printer of it, along with a phone contact number of the authorising person or party
- ~~10.9.~~ Be fastened securely so that they cannot become detached in high winds and endanger Council property or equipment or pose a danger to the safety of the public
- ~~11.10.~~ Be installed, maintained and removed in a safe manner without endangering personal and community safety.

## 2.4 Signs must not:

1. Be located on a fence adjoining Local Government land that is owned by Council or under Council's care, control and management (other than Roads). This includes property being leased from Council
2. Be illuminated (internally or indirectly), move, flash, rotate, or reflect so as to be an undue distraction to drivers
3. Be self-adhesive. All individual promotional material affixed under the terms of this consent may only be affixed by non-invasive means that do not cause damage of any type to the structure to which the material is affixed. If a paste is to be used, it must be of a water based/wallpaper type (or similar)
4. Be affixed under any circumstances to trees, shrubs, or other plants or at any location that may cause damage to Council property
5. Be placed on a carriageway, dividing strip (median), traffic island, roundabout, or within 50 metres of a signalised intersection, roundabout or pedestrian activated crossing
6. Be placed within 6 metres of an intersection or junction, or in any other location that may pose a hazard to pedestrians or Road users
7. Be attached to any traffic control device, street name, traffic direction or parking sign or to the associated pole
- ~~8.~~ Be erected on poles or towers carrying electricity transmission lines (these are generally lines utilising greater span lengths with significantly taller poles or towers supporting electrical wires).
- ~~9.~~ Be attached to SAPN pad-mounted transformers or switching cubicles on Council land
- ~~10.~~ Be attached to the fences of any fenced SAPN equipment including substations, transformer stations and regulator stations on Council land
- ~~8-11.~~ Be placed so as to cover any Council SAPN or DIT numbering, s-Signs or markings on Council land
- ~~9-12.~~ Be placed in a location on a pole or fence so as to aid the climbing of the pole or fence
- ~~10-13.~~ Be placed so as to restrict the sight distance for Road users and pedestrians crossing the Road
- ~~11-14.~~ Compete with or reduce the effectiveness of other Signs and traffic control devices
- ~~12-15.~~ Resemble a traffic control device, or reasonably be capable of being mistaken as a traffic control device
- ~~13-16.~~ Advertise any organisation other than a registered political party or candidate.

## 2.5 Other:

1. Where Signs are fixed or posted on poles adjacent to footpaths or Roadways such Signs must not be lower than two metres and a maximum height of three metres from the ground with nothing above the sign to affix it or anything else to the pole. For safety reasons, there is a total prohibition to any point higher than three metres from the ground
2. The person or relevant political party responsible for the sign must maintain the sign. The person or political party is also responsible for ensuring that safety is maintained (and the Australian Road Rules complied with) whilst the sign is being installed, maintained or removed and no traffic disruption is to occur during the installation, maintenance or removal process
3. Where properties of Council are managed by others, Council may delegate to the Management Committee of that body the right to determine its own policy for election advertising, subject to relevant legislation. In such cases, written consent of that body is

to be obtained. Upon request by the Council, the applicant must produce such written consent

4. The person(s) to whom consent is granted and any persons acting on their behalf, including by way of causing the sign to be displayed:
  - a) Accept(s) and agrees that the display of Signs must be in accordance with this Policy
  - b) Accept(s) full responsibility for any personal injury, property damage or other loss in any way arising out of or consequent upon the erection, removal or display of election material and acknowledge(s) that the Council have no liability or responsibility in relation to such matters whatsoever
  - c) Such person(s) agree(s) to indemnify the Council against any such personal injury or property damage or other loss incurred by the Council and against any third party claims arising out of or consequent upon the erection, removal or display of Signs
5. It is a condition of consent that if any breach occurs which results in action by or on behalf of the Council to enforce the conditions of this policy and thereby results in costs and expenses for the Council, then such costs and expenses will be recovered by the Council from the person(s) responsible. These costs will include removal and/or destruction of the offending material by an officer or agent of the Council
6. The person or party responsible for the sign must remove all parts of the sign and fixtures from the site when required to do so in complying with this policy
7. Installing, maintaining and removing Signs must not be carried out between 7am and 10am or between 3pm and 7pm Monday to Friday on a peak flow traffic lane
8. In relation to Council ward Elections, election signage may only be permitted with Council's consent on Council equipment or infrastructure on Council land within the relevant ward ~~or either side of a ward boundary Road.~~
- ~~8.9.~~ When installing election signs upon SA Power Networks poles and columns - "Stobie poles" on Council land, both the method used to secure the election sign to the Stobie pole (e.g. straps or ties) and the ladder used must be non-conductive. No ladders or operating plant are to be leant against light columns or Stobie poles during installation or removal of election signs. Ladders used must be self-supporting only.

## 2.6 Election Signs on Private or Third Party Property:

For Signs on private fences, including those adjoining Council land, must have a total advertisement area of not more than two (2) square metres ~~and be limited to one sign per candidate/party per site/location for all advertisements of that kind at that site without Planning, Development and Infrastructure Act 2016 approval.~~

Should the applicant propose to use property belonging to any party (other than Council for fences on public Road boundaries) they should firstly obtain the written consent of the owner of that property. Upon request by the Council, the applicant must produce such written consent. ~~In cases where there is property involved belonging to any other party, Council approval will be subject to all of the relevant matters contained in this policy~~

## 2.7 Illegal Signs

Council is totally opposed to illegal Signs as a form of advertising.



~~A breach of, or non-compliance with, any of the conditions of the policy will invalidate the consent and may result in the removal of the Sign, and a report being prepared for consideration by Council with a view to prosecuting the offender.~~

With respect to Roads, the 'consent of the owner' (i.e., SAPN or DIT), under the Instruments of General Approval, is limited, for State and Federal Elections, to the period prescribed in section 226(3) of the Local Government Act 1999. For Council equipment, assets and infrastructure on Council land, individual consent must be obtained in all cases in accordance with this Policy.

If an Election Sign is erected outside the election period provided for in section 226(3) of the Local Government Act or contrary to the terms of Council's consent, a person who distributed or authorised the distribution of the bill for posting is guilty of an offence.  
Maximum penalty: \$20,000 for a body corporate, \$10,000 for an individual.

~~If Signs are creating a public safety concern, have been affixed or displayed contrary to consent or without Council consent, or they remain in place after the deadline for removal, the following procedure will be followed by Council employees:~~

- ~~1. The relevant officer is to notify the organisation/persons by phone/e-mail, requesting removal of the Signs within 24 hours~~
- ~~2. If the Signs are not removed within 24 hours, instructions will be given to immediately remove or paint over the offending Signs, dispose of the sign as it sees fit, and Council will charge the resultant cost to the parties responsible~~
- ~~3. If evidence can be obtained of persons affixing the offending sign, this information will be referred to the relevant person for possible legal proceedings~~
- ~~4. If urgent action is required to avoid a risk to public safety, Council may remove the offending election sign without first requesting its removal.~~

## 2.8 Removal and disposal of election signs

If the Council or its authorised persons or employees determine or reasonably suspect that an Election Sign:

1. Has been affixed or displayed in a manner that restricts the use of a Road or endangers the safety of the public; or
2. Has been affixed or displayed on any Road or Council land contrary to any legislation or the Instruments of General Approval, or otherwise without SAPN, DIT or Council's consent (as required).

Council authorised persons or employees have authorisation to:

1. Notify the organisation/persons responsible for the Election Sign by phone/email and request the removal of the sign within 24 hours
2. If the Election Sign is not removed within 24 hours, cause the offending Sign to be removed. If urgent action is required to avoid a risk to public safety the Council may remove the offending Election Sign without first requesting its removal
3. Under section 23 of the Local Nuisance and Litter Control Act 2016, if considered appropriate in the specific case, issue an expiation notice to any person who has erected an election sign without the permission of the owner

4. If considered appropriate in the specific case, prosecute any person who has distributed or authorised the distribution of the bill (election sign) for posting
5. Recover Council's costs for removing and managing (including disposal) of the sign in accordance with Council's fees and charges register.

The Relevant Road Authority (DIT, Commissioner for Highways or Council) may remove and dispose of any sign that constitutes a hazard or does not comply with legislative requirements.

## 2.9 Application for Council Consent

Any person wishing to make application for the consent of the Council to allow electoral Signs to be posted, affixed or erected on property under the care and control of Council should contact Council's Community Safety Department for an application form on 8397 7313 or fax 8397 7400 or email: [customerservice@cttg.sa.gov.au](mailto:customerservice@cttg.sa.gov.au).

In issuing consent under this part, Council may attach further conditions to any consent issued such as limiting the number of signs per site, stipulating a required distance between signs etc.

A copy of this Policy will be provided to each approved applicant.

## 2.10 Alterations

The CEO may authorise minor variations to this policy during the election process in order to enhance or clarify any part of the policy.

## 2.11 Grievances

Any grievances in relation to this Policy should be forwarded in writing addressed to the CEO.

## 2.12 Promotion

The requirements within this Policy will be promoted within the community and to candidates and political parties.

## 2.13 Compliance with the Policy

Subject to the availability of employee resources, Council will monitor the Signs during an Election Period to ensure compliance.

Whenever Council receives a complaint in regards to a particular Sign or group of Signs the relevant employees will promptly investigate the complaint and take any necessary action.

Where breaches of the policy occur, candidates will be given no more than 24 hours' notice to rectify the breach.

## 3. 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.

DIT

Department for Infrastructure and Transport.

Election Period

Commencing at 5:00pm on the day before the issue of the writ or writs for the election and ending at the close of polls on polling day. If it is related to a Local Government election it is during the period commencing at the close of nominations and ending at the close of voting on polling day.

Election

Means any elections, referenda and/or polls as they relate to Federal, State or Local Governments.

Instruments of General Approval

See those provisions of the *Local Government Association's Election Signs: State and Federal Government Elections Guidelines and General Approval for placement or affixation of election signs* relating to the placement of Election Signs on Road infrastructure.

Road

Has the same meaning as set out in the Local Government Act 1999 – being: a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes - • a bridge, viaduct or subway; or • an alley, laneway or walkway; and for the purposes of clarification extends from property boundary to property boundary. Note: this definition encompasses footpath areas.

SAPN

SA Power Networks.

SAPOL

South Australia Police.

Signs

Includes moveable Signs where appropriate and also includes posters that comprise an advertisement for a candidate or party in the election, or for a referendum or poll whether held for Federal, State or Local Government purposes.

## ~~1. STRATEGIC PLAN/POLICY~~

### ~~3.1 Strategic Plan~~

~~The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:~~

<del>Objective</del>	<del>Comments</del>
<del>Leadership</del>	
<del>Leadership and advocacy is focused on the long term interests of the community</del>	

<del>Customer service provides a positive experience for people and is based on honesty and transparency</del>	
<del>Planning considers current and future community needs</del>	
<del>Delivery of services is sustainable and adaptable</del>	
<del>Decision making is informed, based on evidence and is consistent</del>	<del>This policy provides clear guidelines for staff and in management of election signage issues. The policy also informs members of the public of the processes that Council staff will undertake in relation to any questions or concerns that they have in relation to election signage.</del>
<del>Major strategic decisions are made after considering the views of the community</del>	

### ~~3.2 Organisation Plan~~

~~Within this policy we define the roles, powers and responsibilities within the organisation and strive to be a leader of good governance in local government. We work proactively to meet our legislative and governance obligations and the practice of good governance.~~

## 4. LEGISLATIVE FRAMEWORK

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

The following legislation is relevant for the purposes of this Policy:

Local Government Act 1999

Section 209(1) - All fixtures and equipment installed in, on, across, under or over a public Road by the provider of public infrastructure are owned by the provider of that infrastructure, not by the Council.

Section 221(2)(b) & (2)(d) - It is an offence to interfere with any structure on a public Road or to erect or install a structure ("structure" includes pipes, poles, fixtures, fittings or other objects) in, on, across, over or under a public Road without authorisation from Council.

Section 226(1) - A moveable sign must not unreasonably restrict the use of the Road or endanger the safety of the public. A person may place and maintain a moveable sign on a Road without authorisation provided the design and structure, the positioning of the sign and any other relevant requirements of the Council's *Moveable Signs By-law 2021* are complied with. *Movable Sign By-law* provisions do not apply if the sign is related to a State or Federal election and is displayed during the Election Period.

Section 226(2a) - It is an offence to exhibit an electoral advertising poster relating to an election held under this Act or the *Local Government (Elections) Act 1999* on a public Road.

Section 227 - If an election sign unreasonably restricts the use of the Road or endangers the safety of members of the public, a person authorised by Council may order the owner of the sign to remove the sign, or if the owner is unknown or fails to comply immediately with the order, may remove and dispose of the sign.

Section 234 - A Council may remove and dispose of any object (which includes an election sign) that has been erected, placed or deposited on a public Road without authorisation or permit or contrary to the conditions of any authorisation, permit or by-law and recover the cost of doing so from the person who erected, placed or deposited the structure or object.

Section 239 - A Council can make a by-law to regulate moveable Signs (defined in the Act as a moveable advertisement or sign).

Local Government (Elections) Act 1999

Applicable to Local Government Elections only.

Section 27 - A person who publishes electoral material must include the name and address of the person who authorises the publication and in the case of printed material, the name and address of the printer or other person responsible for its production.

Section 28 - It is an offence to publish electoral material that purports to be a statement of fact and yet is inaccurate and misleading to a material extent.

Local Nuisance and Litter Control Act 2016

Section 23 - it is an offence to 'post a bill' (erect an election sign) on property without the consent of the owner or occupier of the property.

Planning, Development and Infrastructure Act 2016

Section 231 - If an advertisement or hoarding disfigures the natural beauty of a locality, detracts from the amenity of a locality or is contrary to the character desired from the locality under the Planning and Design Code, the Council may serve notice on the owner or occupier of the land (on which it is located) to remove or obliterate it unless it is authorised under the Local Government Act 1999, the Electoral Act 1985 or the Local Government (Elections) Act 1999.

Planning, Development and Infrastructure (General) Regulations 2017

Schedule 4, Regulation 1 - Advertising displays - Provides that an advertisement in relation to an election/referendum is excluded from being defined as "development" (and hence does not require authorisation under the Planning, Development and Infrastructure Act 2016) if the total area on one building or site is not more than two square metres and the display does not move, flash, reflect light so as to cause undue distraction to motorists nor is internally illuminated.

Electoral Act 1985

Councils do not have the power to regulate the content of State electoral Signs.

Queries in relation to the provisions of the Electoral Act 1985 should be directed to the Electoral Commission of South Australia.

Commonwealth Electoral Act 1918 (Cth)

Councils do not have the power to regulate the content of Federal electoral Signs.

Queries in relation to the provisions of the Commonwealth Electoral Act should be directed to Australian Electoral Commission.

Criminal Law Consolidation Act 1935

It is an offence under this Act to steal or deface an electoral sign or poster. Any alleged offence will be referred to the SAPOL for their attention.

Road Traffic Act 1961

Section 31(2) - Despite any other law, the Road authority in which the care, control or management of a Road is vested may remove from the Road and dispose of any false traffic control device, structure or thing that the Road authority is satisfied might constitute a hazard to traffic.

Summary Offences Act 1953

It is an offence under section 33(2)(c) and (d) of this Act to:

- a. Exhibit indecent or offensive material in a public place or so as to be visible from a public place
- b. Deposit indecent or offensive material in a public place.

An alleged offence will be referred to SAPOL for their attention.

Local Government Land By law 2021

Clause 10.2 – provides exemptions to parts of the by-law relating to specific electoral matters

Moveable Signs By Law 2021

#### 4.1 Other references

Council's document including:

- a. Fees and Charges Register

External document including:

- a. Guidelines & General Approval for the Placement or Affixation of Election Signs – For Federal, State and Local Government Elections Referenda and Polls

## 2. 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.

### DIT

Department for Infrastructure and Transport.

### Election Period

~~Commencing at 5:00pm on the day before the issue of the formal written order writ or writs for the election and ending at the close of polls on polling day. If it is related to a Local Government election it is during the period commencing at the close of nominations and ending at the close of voting on polling day (for election Signs only, as the Caretaker Policy is from the start of nominations).~~

### Election

~~Includes periodic and general Elections, by elections and supplementary Elections, referenda and polls, and applies to Australian, State and Local Government Elections.~~

~~Means any elections, referenda and/or polls as they relate to Federal, State or Local Governments.~~

### Instruments of General Approval

~~See those provisions of the Local Government Association's Election Signs: State and Federal Government Elections Guidelines and General Approval for placement or affixation of election signs relating to the placement of Election Signs on Road infrastructure.~~

### Road

~~Has the same meaning as set out in the Local Government Act 1999 — being: a public or private street, road or thoroughfare to which public access is available on a continuous or substantially continuous basis to vehicles or pedestrians or both and includes — a bridge, viaduct or subway; or an alley, laneway or walkway; and for the purposes of clarification extends from property boundary to property boundary. Note: this definition encompasses footpath areas.~~

### SAPN

~~SA Power Networks.~~

### SAPOL

~~South Australia Police.~~

### Signs

~~Includes moveable Signs where appropriate and also includes posters that comprise an advertisement for a candidate or party in the election, or for a referendum or poll whether held for Australian Federal, State or Local Government purposes.~~

## 5. LEGISLATIVE FRAMEWORK

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

~~The following legislation applies to this Policy. The following legislation is relevant for the purposes of this Policy:~~

~~Local Government Act 1999~~

~~Section 209(1) – All fixtures and equipment installed in, on, across, under or over a public Road by the provider of public infrastructure are owned by the provider of that infrastructure, not by the Council.~~

~~Section 221(2)(b) & (2)(d) – It is an offence to interfere with any structure on a public Road or to erect or install a structure (“structure” includes pipes, poles, fixtures, fittings or other objects) in, on, across, over or under a public Road without authorisation from Council.~~

~~Section 226(1) – A moveable sign must not unreasonably restrict the use of the Road or endanger the safety of the public. A person may place and maintain a moveable sign on a Road without authorisation provided the design and structure, the positioning of the sign and any other relevant requirements of the Council’s Moveable Signs By law 2021 are complied with. These Movable Sign By law provisions do not apply if the sign is related to a State or Australian Federal election and is displayed during the period Election Period.~~

~~Section 226(2a) – It is an offence to exhibit an electoral advertising poster relating to an election held under this Act or the Local Government (Elections) Act 1999 on a public Road.~~

~~Section 227 – If an election sign unreasonably restricts the use of the Road or endangers the safety of members of the public, a person authorised by Council may order the owner of the sign to remove the sign, or if the owner is unknown or fails to comply immediately with the order, may remove and dispose of the sign.~~

~~Section 234 – A Council may remove and dispose of any object (which includes an election sign) that has been erected, placed or deposited on a public Road without authorisation or permit or contrary to the conditions of any authorisation, permit or by law and recover the cost of doing so from the person who erected, placed or deposited the structure or object.~~

~~Section 235 – A person who deposits rubbish (which includes litter) on a public Road without authorisation or permit commits an offence.~~

~~Section 239 – A Council can make a by law to regulate moveable Signs (defined in the Act as a moveable advertisement or sign).~~

~~Section 240 – Council has the power to make by laws prohibiting the posting of bills, advertisements or other papers or items on a building or structure on a Road, other Local Government land or other public place, without the permission of the Council.~~

~~Local Government (Elections) Act 1999~~

~~Applicable to Local Government Elections only.~~

~~Section 27 – A person who publishes electoral material must include the name and address of the person who authorises the publication and in the case of printed material, the name and address of the printer or other person responsible for its production.~~



~~Section 28—It is an offence to publish electoral material that purports to be a statement of fact and yet is inaccurate and misleading to a material extent.~~

~~Local Nuisance and Litter Control Act 2016~~

~~Section 23—it is an offence to 'post a bill' (erect an election sign) on property without the consent of the owner or occupier of the property.~~

~~Planning, Development and Infrastructure Act 2016~~

~~Section 231—If an advertisement or hoarding disfigures the natural beauty of a locality, detracts from the amenity of a locality or is contrary to the character desired from the locality under the Planning and Design Code, the Council may serve notice on the owner or occupier of the land (on which it is located) to remove or obliterate it unless it is authorised under the Local Government Act 1999, the Electoral Act 1985 or the Local Government (Elections) Act 1999.~~

~~Planning, Development and Infrastructure (General) Regulations 2017~~

~~Schedule 4, Regulation 1—Advertising displays—Provides that an advertisement in relation to an election/referendum is excluded from being defined as "development" (and hence does not require authorisation under the Planning, Development and Infrastructure Act 2016) if the total area on one building or site is not more than two square metres and the display does not move, flash, reflect light so as to cause undue distraction to motorists nor is internally illuminated.~~

~~Electoral Act 1985~~

~~Councils do not have the power to regulate the content of State electoral Signs.  
Queries in relation to the provisions of the Electoral Act 1985 should be directed to the Electoral Commission of South Australia.~~

~~Commonwealth Electoral Act 1918 (Cth)~~

~~Councils do not have the power to regulate the content of Federal electoral Signs.  
Queries in relation to the provisions of the Commonwealth Electoral Act should be directed to Australian Electoral Commission.~~

~~Criminal Law Consolidation Act 1935~~

~~It is an offence under this Act to steal or deface an electoral sign or poster. Any alleged offence will be referred to the SAPOL for their attention.~~

~~Road Traffic Act 1961~~

~~Section 31(2)—Despite any other law, the Road authority in which the care, control or management of a Road is vested may remove from the Road and dispose of any false traffic control device, structure or thing that the Road authority is satisfied might constitute a hazard to traffic.~~

~~Summary Offences Act 1953~~

~~It is an offence under section 33(2)(c) and (d) of this Act to:~~

- ~~a.—Exhibit indecent or offensive material in a public place or so as to be visible from a public place~~
- ~~b.—Deposit indecent or offensive material in a public place.~~

~~An alleged offence will be referred to SAPOL for their attention.~~

~~Local Government Land By law 2021~~

~~Clause 10.2 provides exemptions to parts of the by law relating to specific electoral matters~~

~~Moveable Signs By Law 2021~~

## ~~5.2 Other references~~

~~Council's document including:~~

- ~~a. Fees and Charges Register~~

~~External document including:~~

- ~~a. Guidelines & General Approval for the Placement or Affixation of Election Signs For Federal, State and Local Government Elections Referenda and Polls~~

## 5. STRATEGIC PLAN/POLICY

### 5.1 Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:

<u>Objective</u>	<u>Comments</u>
<u>Leadership</u>	
<u>Leadership and advocacy is focused on the long term interests of the community</u>	
<u>Customer service provides a positive experience for people and is based on honesty and transparency</u>	
<u>Planning considers current and future community needs</u>	
<u>Delivery of services is sustainable and adaptable</u>	
<u>Decision making is informed, based on evidence and is consistent</u>	<u>This policy provides clear guidelines for staff and in management of election signage issues. The policy also informs members of the public of the processes that Council staff will undertake in relation to any questions or concerns that they have in relation to election signage.</u>
<u>Major strategic decisions are made after considering the views of the community</u>	

### 5.2 Organisation Plan

Within this policy we define the roles, powers and responsibilities within the organisation and strive to be a leader of good governance in local government. We work proactively to meet our legislative and governance obligations and the practice of good governance.

## **6. 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.

## **7. ACCESSIBILITY**

~~This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: [www.cttg.sa.gov.au](http://www.cttg.sa.gov.au)~~

~~Hard copies, for a fee, can be provided in accordance with Council's Fees and Charges Register at Council's Civic Centre at 571 Montague Road, Modbury SA 5092.~~



City of Tea Tree Gully  
Governance and Policy Committee

Document Cover Sheet

25 JULY 2022

## SPORTS FIELD FLOODLIGHTING POLICY

Responsible Manager: Manager Civil Assets & Manager Recreation & Leisure Services

This policy has been reviewed by key internal stakeholders via a staff workshop and individual stakeholder review.

The policy provides guidance to sporting and community organisations that wish to install or upgrade sports field floodlighting on Council land. The policy details the responsibilities of both the Council and the sporting or community organisation including the funding responsibilities, asset ownership and maintenance responsibilities.

The policy review on this occasion proposes to expand the document to address experienced issues in recent years, particularly relating to end of life asset replacement and requests to renew sport floodlighting assets above required Lux levels and/or relevant Australian Standards.

### RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

**That the “Sports Field Floodlighting Policy” as reviewed by the** Governance and Policy Committee on 25 July 2022 be adopted.

Summary of changes		
Page No.	Heading	Comments
1	Other key internal stakeholders	Removal of title for Manager Recreation & Leisure Services as this title is already referenced in this section under the heading Responsible Managers.
3	Council Responsibility	Reference to other approvals added to reflect existing approval requirements.
4	Level of Provision	<b>Addition of a new section to the Policy titled ‘Level of Provision’. The purpose of this section is to address</b> examples being experienced in current lighting projects including end of life asset replacement responsibilities, and the provision of Lux levels to <b>Australian Standards as Council’s endorsed</b> maximum allocation and associated capital spend. This information will assist staff to determine the financial responsibilities between Council and the requesting sport or community organisation.
5	Operational Costs	Addition of a sentence to provide clarity around hire <b>fees being in accordance with Council’s adopted</b> Fees and Charges Register.
5	Other References	<b>Addition of the words ‘new and/or’ in recognition of</b> lighting requests relating to sites that may have had temporary lighting and now request new permanent lighting, especially in reference to Community Land Management Plan amendments and the requirement for community consultation.
6	Definitions	Addition of a definition for Australian Standards
7	Definitions	Addition of a definition for Lux and Sports Floodlighting.

Supporting Information

## Attachments

1. [Sports Field Floodlighting Policy - Reviewed GPC - 6 July 2022](#)..... 78

# Sports Field Floodlighting Policy



Record number	D22/24823
Responsible Managers	Manager Civil Assets Manager Recreation & Leisure Services
Other key internal stakeholders	Director Assets & Environment Director Community & Cultural Development Manager Recreation & Leisure Services
Last reviewed	
Adoption reference	
Resolution number	
Previous review dates	16/10/19, 28/02/17, 10/12/13, 19/01/10, 30/5/06
Legal requirement	Nil
Due date next review	2025

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.

## 1. PURPOSE

### PURPOSE

The purpose of this policy is to establish Council's position in regard to the installation and maintenance of sports floodlighting to Council owned properties including the level of financial contribution that will be made by Council and the relevant sporting and community organisations.

## 2. POLICY

### POLICY

From time to time Council receives requests from sporting and community organisations to provide or upgrade floodlighting. In order to assess and respond to requests in a consistent and equitable manner, Council will assess each application based on the following principles of responsibility. The decision to undertake any upgrade is at the discretion of Council and funding is not guaranteed upon application.

### 2.1 Funding Responsibilities - Council and Sporting and Community Organisations

Council and sporting and community organisations will be jointly responsible for the project funding in accordance with the following:

#### 2.1.1 Leased or Licensed Facilities

Council may contribute up to 50% of the project costs net of grant or any other third party funding (subject to budget availability in any relevant financial year). Grant and sponsorship funds will be treated as separate contributions.

Some examples on how this might be applied are as follows:

Example 1 - Simple funding - Council and sporting and community organisation only

Total cost - \$100,000

Sporting and community organisation - \$50,000

Council - \$50,000

Example 2 - Funding with a grant funding included

Total Cost \$100,000

Grant \$50,000

Sporting and community organisation - \$25,000

Council \$25,000

Example 3 - Funding with grant funding and sporting and community organisation sponsorship

Total Cost - \$100,000

Grant - \$50,000

Sporting and community organisation - \$25,000 (Sponsorship \$20,000, sporting and community organisation funds \$5,000)

Council \$25,000

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### 2.1.2 Non Leased Facilities

Council may contribute more than 50% of the project costs net of grant or any other third party funding (subject to budget availability in any relevant financial year), should the facility not be under lease or licence. This will be considered by Council on a case by case basis and will be subject to the sporting or community organisation making a reasonable financial contribution towards the project.

## 2.2 Sporting and Community Organisation's Responsibility

There have been instances where sporting and community organisations have agreed, in writing, to contribute a portion of the project cost, but due to financial circumstances have been unable to honour the commitment. In order to minimise this risk to Council the sporting and community organisations must:

- a. Be an incorporated body
- b. Contribute towards the project in accordance with the Funding Responsibilities
- c. The illumination (or Lux) of lighting is to be consistent with Australian Standards for training and/or competition level requirements for each activity proposed
- d. Demonstrate to the satisfaction of Council that it has sought external funding sources in the first instance (e.g. Active Club grant or another State or Federal grant) to assist in defraying the costs. If external funding is not available, the club must demonstrate to the satisfaction of Council that it has pursued all reasonable avenues to seek external funding
- e. Provide the past two years and current financial statements for inspection and analysis by Council
- f. Provide proof / verification of their membership numbers
- g. Provide payment as follows:
  - i. First instalment - payment of 50% of the sporting and community organisations agreed contribution to be paid upon receipt of written advice provided by the Council to the sporting and community organisations that the project has commenced
  - ii. Second instalment - payment of 30% of the sporting and community organisations agreed contribution to be paid upon receipt of written advice provided by the Council to the sporting and community organisations that the project has advanced to installation of all light poles
  - iii. Final instalment - payment of 20% of the sporting and community organisations agreed contribution to be paid upon completion of the project.

\_\_\_\_\_ The CEO may vary this arrangement due to specific project circumstances

## 2.3 Council Responsibility

\_\_\_\_\_ Council, as owner of the property, will:

- a. Contribute towards the project in accordance with the Funding Responsibility section of this policy and subject to available funds in Council's relevant annual budget
- b. Assess the project for its viability and appropriateness after considering the impact on and benefit for the community
- c. Be responsible for obtaining any relevant development approval or other approvals (Eg. Flightpath approval)

- d. Project manage the procurement and installation of the sports field floodlighting and all associated works
- e. Provide a legally binding contract with the relevant conditions and responsibilities for both sporting and community organisations and Council clearly specified
- f. Obtain written support from any relevant management committee and/or lessee
- g. Maintain the right to control the use of the lights and associated grounds, at times, to ensure the relevant sports surface is not unduly damaged
- h. Ensure site works will only commence after all relevant development approvals have been granted and Council has made provision for its expenditure in the current or relevant budgets
- i. Ensure a proposal is consistent with the direction of other Council documents.

## 2.4 Ownership and Maintenance

Upon commissioning, the asset (lighting columns and related infrastructure) will remain the property of the City of Tea Tree Gully and Council will bear all costs associated with repair / refurbishment of mechanical, civil and electrical components (including lamp replacement), subject to any applicable licence/lease provisions to the contrary or any written agreement with the sporting and community organisations.

## 2.5 Level of Provision

End of Life replacement of sports floodlighting assets (lighting columns and related infrastructure) will remain the financial responsibility of Council in its entirety, subject to:

- a. Council identifying the end of life period via an audit of the asset
- b. Sports floodlighting priorities are in accordance with Council's available resources and budgetary priorities
- c. The Australian Standards, this policy and sports floodlighting audit data determines the lighting illuminance required (lux level) and the playing area to be lit for the intended use of a facility

Sporting and Community Organisations who request lighting illuminance (lux levels) above Australian Standards for the intended use of a facility will be required to fund the difference in capital cost between the Australian Standard and the increased level of service requested.

A sporting or community organisation contribution to sports floodlighting provision or upgrades above this policy and Australian Standards does not result in the club having exclusive access or reduced utility charges.

In the event that there is no Australian Standard to determine lighting requirements for a specific use or for new sporting activities, then Council, in association with the appropriate State Sporting Organisation, shall determine an appropriate standard to which lighting must comply.

To prolong the life span of floodlight fittings/globes, and at sites where programming options are provided to differentiate between training and competition lighting illuminance levels, sporting and community organisations are responsible for ensuring the correct lighting illuminance (lux level) is being used for the intended activity at the time (Eg. 100 lux for AFL training vs 200 lux for

evening competition), as well as ensuring sports floodlighting is promptly turned off at the cessation of use.

Floodlights installed on land under the care and control of the Council, remain the Council's asset and may not be altered or removed without prior written approval of Council. Where required, site specific hire charges will be in accordance with the Council's adopted Fees and Charges Register.

## 2.6 Operational Costs

In the situation that the site is a leased venue, upon commissioning of the asset, the relevant Incorporated Body will be responsible for the payment of electricity.

Council will remain responsible for the payment of electricity for sites used under approved seasonal hire agreements, unless otherwise stated in the relevant hire agreement.

Where required, site specific hire charges will be in accordance with Council's adopted Fees and Charges Register.

## 3. DEFINITIONS

For the purposes of this policy the following definitions apply:

### Australian Standards

Published documents setting out specifications and procedures designed to ensure products, services and systems are safe, reliable and consistently perform the way they were intended to. They establish a common language which defines quality and safety criteria.

### CEO

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

### Lux

The total amount of visible light illuminating a point on a surface from all directions above the surface. The standard unit for illuminance is Lux (lx). For a lamp it normally refers to the total light emitted irrespective of the directions in which it is distributed.

### Sports Floodlighting

Characterised by outdoor, weather proof, elevated light columns and fittings established to provide uniformity of illumination across a playing area in accordance with appropriate standards. The basic requirement of sportsground floodlighting is that the focus of play, most

usually around the position of the ball, is adequately illuminated consistently across the entire field of play.

#### 4. LEGISLATIVE FRAMEWORK

There is no legislative requirement for Council to have a policy relating to this area. However, this policy needs to be considerate of specific legislation, in particular the Development Act 1993, Council's Strategic Plan and the Community Land Management Plans prepared in accordance with the Local Government Act 1999.

##### 4.1 Other references

Council's document including:

- a. Fees and Charges Register  
Details the applicable hourly charge applied to an individual, club or other organisation/group for the use of sport field floodlighting.
- b. Leases and Licences for Sporting and Community Organisations Policy  
Council's "Leases and Licences for Sporting and Community Organisations Policy" has been structured to be an incentive for clubs and community groups to increase utilisation of Council owned facilities, encourage operational sustainability and promote club growth. The Policy establishes a clear set of guidelines for the consideration of applications for the granting of leases and licences to sporting and community groups on community land.
- c. Community Land Management Plans  
Section 198(2) of the Local Government Act 1999 states that an amendment to the Community Land Management Plan requires community consultation. S198 (3) confirms that if there is no impact then consultation is not required.  
Installation of permanent sports field floodlighting at a reserve/ sporting ground may have an impact on the community and require an amendment to the relevant Community Land Management Plan; therefore a request for new and/or permanent lighting may be subject to community engagement and must follow the relevant steps as detailed in Council's "Community Engagement (Public Consultation) Policy".
- d. Development Plans  
The relevant Development Plan will direct the scope of sports field floodlighting, including the permitted height of light towers and/or illumination levels.
- e. Open Space Policy  
This Strategy details the likely development and inclusions for open space based on the hierarchy of open space within the City (Local, Neighbourhood, District, Regional), particularly guidelines for infrastructure development on sporting grounds.

#### 5. STRATEGIC PLAN/POLICY

##### 5.1 Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:

<u>Objective</u>	<u>Comments</u>
<u>Community</u>	
<u>People feel a sense of belonging, inclusion and connection with the City and the community</u>	<u>Good quality community infrastructure supports active participation in health and wellbeing activities.</u>
<u>Diversity is welcome and celebrated</u>	
<u>There are opportunities for people to volunteer, give back and share their skills with others</u>	
<u>Our services are accessible to all and respond to changing community needs</u>	
<u>People can have a say in decisions that affect them and the key decisions of the Council</u>	
<u>Environment</u>	
<u>Environmentally valuable places and sites that are flourishing and well-cared for</u>	
<u>A community that is protected from public and environmental health risks</u>	<u>Community participation in active pursuits increases through good quality, well-designed and well-utilised facilities.</u>
<u>The carbon footprint of our city is reduced through the collective efforts of community and Council, including businesses</u>	
<u>Our consumption of natural resources is minimized by reducing, reusing and recycling products and materials, and using renewable resources</u>	
<u>We are resilient to climate change and equipped to manage the impact of extreme weather events</u>	
<u>Our tree canopy is increasing</u>	
<u>Economy</u>	
<u>Modbury Precinct is revitalised as the city's key activity</u>	
<u>A population profile that supports a growing economy</u>	
<u>A local economy that is resilient and thrives, where businesses are supported to grow and prosper, provide local jobs and sustain our community and visitors and utilize technology to improve the livability of our city</u>	
<u>People are supported to develop their leadership and employment capabilities</u>	
<u>Support the efficient use of land for valuable mineral extraction and energy resources</u>	
<u>Places</u>	

<u>Streets, paths, open spaces and parks are appealing, safe and accessible</u>	
<u>Opportunities exist to express and experience art and culture</u>	
<u>Neighbourhoods are easy to move around and are well connected with pedestrian and cycle paths that offer an alternative to cars</u>	
<u>Buildings and places are energy efficient, well designed and display a uniqueness of character and identity</u>	
<u>Housing is well designed and affordable and responds to the changing needs of existing and future residents</u>	
<u>Infrastructure and community facilities are fit for purpose, constructed using sustainable practices and well maintained</u>	<u>Good quality and well maintained facilities create a vibrant and liveable city.</u>
<u>Leadership</u>	
<u>Leadership and advocacy is focused on the long term interests of the community</u>	
<u>Customer service provides a positive experience for people and is based on honesty and transparency</u>	
<u>Planning considers current and future community needs</u>	
<u>Delivery of services is sustainable and adaptable</u>	
<u>Decision making is informed, based on evidence and is consistent</u>	
<u>Major strategic decisions are made after considering the views of the community</u>	

[remove aspirations that are not relevant]

## 5.2 Organisation Plan

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

## 6. POLICY IMPLEMENTATION

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

### **STRATEGIC PLAN/POLICY** **Strategic Plan**

Theme	Objective	Comments
<b>HEALTHY AND SAFE</b>	A community where people have easy access to places, spaces and services that support good health.	Recreational and sporting facilities support physical activity and the health of our community.
<b>PROSPEROUS AND CONNECTED</b>	A community that has a say in decisions that affect them. A community that participates in meaningful community and economic activities.	Community participation in active pursuits increases through good quality, well-designed and well-utilised facilities.
<b>VIBRANT AND LIVEABLE</b>	A city that is made up of places and spaces that are appealing and easy to access. A place that expresses a unique character and identity, an area that inspires pride in its residents and one that people enjoy visiting.	Good quality facilities create a vibrant and liveable city by increasing visitation to open spaces and making a place that is appealing to live in.

This Policy provides clear direction to sporting and community groups in relation to renewing or new installations of sports field floodlighting on Council land, with such facilities enabling such groups to operate in the City of Tea Tree Gully and provide a facility that is valued by club members, is unique in this city and supports community participation in activities that support good health.

## Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of organisational excellence. The themes most relevant to this report are: People and Leadership; Customers and community relations; Governance; Finance and systems; Continuous improvement

## DEFINITIONS

For the purposes of this policy the following definitions apply:

### Australian Standards

Published documents setting out specifications and procedures designed to ensure products, services and systems are safe, reliable and consistently perform the way they were intended to. They establish a common language which defines quality and safety criteria.

### CEO

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

### Lux

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### Sports Floodlighting

Characterised by outdoor, weather proof, elevated light columns and fittings established to provide uniformity of illumination across a playing area in accordance with appropriate standards. The basic requirement of sportsground floodlighting is that the focus of play, most usually around the position of the ball, is adequately illuminated consistently across the entire field of play.

## **POLICY IMPLEMENTATION**

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## **ACCESSIBILITY**

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## LEASES AND LICENCES TO SPORTING AND COMMUNITY ORGANISATIONS POLICY

Responsible Manager: Manager Recreation and Leisure Services

The purpose of this policy is to establish a set of clear guidelines for the consideration of applications for the granting of leases or licenses to sporting and community groups on community land.

This policy will determine the criteria Council Administration use to assess and grant a lease; or renewal of lease, for up to a total five year term. All community or sporting groups that seek leases longer than the five years, or seek additional special conditions, will be considered by Council prior to proceeding to community engagement if required under the Local Government Act 1999.

The proposed amendments to the policy address issues and concerns which have been experienced by Council staff and are areas of confusion for some lease or licence recipients. The proposed amendments aim to provide greater clarity regarding outgoings (items incurring a cost) and the calculation of lease or licence fees when considering or executing an agreement.

**This policy has been reviewed by internal stakeholders as referenced as 'Other key internal stakeholders' on page one of Attachment 1 to this report.**

The proposed amendments have also been reviewed externally by Council lawyers, with recommendations for change reflected in the document.

## RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

**That the “Leases and Licences to Sporting and Community Organisations Policy” as reviewed by the Governance and Policy Committee on 25 July 2022 be adopted.**

Summary of changes		
Page No.	Heading	Comments
Various	Various	Council lawyers suggested that all relevant <b>references to “lessee” or “licensee” be replaced with “Tenant” throughout as this term has been defined at the back of the policy.</b>
Whole document	Whole document	Formatting and layout of policy amended to reflect updated template.
1	Other key internal stakeholders	Position titles updated to reflect organizational structure changes which have occurred.
2	Purpose	<b>Addition of words ‘lease’ and/or ‘licence’ to provide clarity that this policy applies to both tenure types.</b>  This change is reflected throughout the policy.
2	Policy	Addition of references to <b>Community Land Management Plan, Council’s Strategic Plan and any other relevant Council strategies</b> to ensure these are considered when actioning a request for a renewed or new lease or licence agreement.
2	Policy	Addition of the <b>words “as required” next to the requirement for an ABN</b> , as only those incorporated associations with a turnover that exceeds \$150k per annum are required to have an ABN. This change was recommended via lawyer review of the policy.  Addition of the words <b>‘and strategic plan’ at item ‘k’</b> to reflect this as an existing requirement. This demonstrates that the agreement holder has a long term vision and plan for operating from a community facility. Council staff assist lease and licence holders in the preparation of business plans and strategic plans when requested.
4	Exclusions	Addition of a paragraph to address lease or licence fee calculations for sporting and community organisations which have increased capacity to generate revenue from the use of a community

		<p>facility, and applying significant revenue to salaried staff, player payments, etc.</p> <p>Proposed lease and licence fees are considered by Council prior to executing an agreement therefore evaluation of revenue generation against the Subsidy Criteria will be transparent so that Council can appropriately consider fee recommendations.</p>
3	Licences and/or Leases on sites whereby the Tenant only occupies a portion of the building	<p><b>Addition of the word ‘portion’ to reflect the heading of this section.</b></p> <p><b>Addition of the words “as a licence incorporates a portion of costs incurred for utilities and outgoings”.</b> This addition was recommended by Council lawyers to express that a licence fee is higher than a lease fee as it includes utilities and other outgoings.</p>
3	Leases	Addition of a sentence to provide clarity around the responsibilities that follow this section also relating to any licenced area associated with a building Lease.
3	Tenant Responsibility	<p>As per regulation 94(11) of the Planning, Development and Infrastructure (General) Regulations 2017, each year Council staff are required to submit a Form 3 Certificate of Compliance with Maintenance Procedures for Essential Safety Provisions against each building under Council ownership. This form certifies that maintenance and testing have been carried out in respect of each of the following essential safety provisions for a building, in accordance with the standards/codes/conditions of approval:</p> <ul style="list-style-type: none"> <li>- Means of Egress (exits and paths of travel)</li> <li>- Signs (illuminated exit signs, fire door/exit door identification signs)</li> <li>- Emergency lighting</li> <li>- Fire-fighting Services and Equipment</li> </ul> <p>The maintenance and testing of Emergency Service Provisions and Fire and Safety items is a current Tenant Responsibility and there is a varying degree of compliance with the requirement, resulting in Council not being compliant with Regulations and Standards and therefore Form 3 requirements. The task of maintenance and testing has now been transferred to a Council responsibility to ensure compliance, with the cost of inspections and</p>

		maintenance remaining with the Tenant as a cost recharge.
4	Tenant Responsibility	<p>Item b:</p> <ul style="list-style-type: none"> <li>- Expansion of examples listed against day-to-day repairs and maintenance, to address confusion currently being experienced by a Tenant and Council staff that the referenced items are an existing Tenant responsibility (gutter cleaning, maintenance of heating/cooling systems, carpet replacement and cleaning, club/sport specific signage).</li> <li>- Addition of <b>words ‘above Council provisions’</b> after Waste Disposal Costs to reflect that Council provides a current level of service to sporting and community organisations which are not costs associated with a Tenant Responsibility (ie. Basic provision of red, yellow and green bins).</li> </ul> <p>Item c:</p> <ul style="list-style-type: none"> <li>- Addition of this item to reflect this being an existing Tenant Responsibility within a Lease Agreement.</li> </ul> <p>Item e:</p> <ul style="list-style-type: none"> <li>- Expansion of examples listed against direct outgoings for transparency.</li> </ul> <p>Item i:</p> <ul style="list-style-type: none"> <li>- Expansion of Tenant Responsibilities to reflect a requirement for a Sporting or Community Organisation to be socially responsible and develop good governance if selling or providing alcohol from a community facility.</li> </ul> <p>Item j:</p> <ul style="list-style-type: none"> <li>- <b>Addition of the words ‘or structure amendments’ to reflect current state and requirement for approval for structure amendments as this may impact building insurance (Council cost responsibility) and/or structural integrity of a building (WHS and Risk considerations).</b></li> </ul> <p>Item k:</p> <ul style="list-style-type: none"> <li>- <b>Removal of the words ‘grassed based’ as not all areas are of this surface type.</b></li> </ul>

		<ul style="list-style-type: none"> <li>- <b>Addition of the words “which are also accessible to the community” as this responsibility only applies to facilities which are not exclusive use.</b></li> </ul> <p>Item r:</p> <ul style="list-style-type: none"> <li>- Addition of this Tenant Responsibility to ensure a Tenant acknowledges the role Council (and therefore the community) plays in the provision of sporting and community infrastructure.</li> </ul>
4	Tenant Responsibility	<p>Addition of a sentence to acknowledge that some Tenants will not have the capacity to undertake all Tenant Responsibilities due to limited volunteer numbers, therefore Council in liaison with the Tenant can negotiate to undertake certain responsibilities, recharging any applicable costs back to the Tenant.</p>
4	Tenant Responsibility	<p>Addition of reference to a Tenant requiring approval to hire or sub-lease to a commercial activity, as per section 200(1) of the Local Government Act 1999 which states:</p> <p><i>Division 5—Business use of community land 200 - Use of community land for business purposes</i></p> <p><i>(1) A person must not use community land for a business purpose unless the use is approved by the council.</i></p> <p><i>(2) The council cannot approve the use of community land for a business purpose contrary to the provisions of a management plan.</i></p> <p><i>(3) The council's approval may be given on conditions the council considers appropriate.</i></p> <p><i>(4) A person must not—</i></p> <p><i>(a) use community land for a business purpose in contravention of subsection (1); or</i></p> <p><i>(b) contravene a condition of an approval for the use of community land for a business purpose.</i></p> <p><i>Maximum penalty: \$5 000.</i></p> <p>Addition of requirement for a Tenant to charge commercial hire rates for a commercial entity hiring community facilities.</p> <p>This addition will require a new fee to be added to <b>Council's Fees and Charges Register.</b></p>

5	Tenant Responsibility	<p>Addition of a paragraph to address the requirement for a Tenant who may be terminating an agreement to complete all necessary repairs and maintenance requirements prior to departure.</p> <p>This requirement is currently reflected in the legally executed Lease Agreement, therefore adding it into the Policy has been done to ensure transparency.</p>
5	Council Responsibility	<p>Item c:</p> <ul style="list-style-type: none"> <li>- Expansion of this Item for transparency to reflect the action resulting from Council carrying out facility inspections.</li> </ul> <p>Item d:</p> <ul style="list-style-type: none"> <li>- Addition of this item to reflect this being an existing Council Responsibility.</li> </ul> <p>Item e:</p> <ul style="list-style-type: none"> <li>- Addition of this Item in response to previously defined requirements (refer Tenant Responsibility above) in relation to Essential Safety Provisions and legal compliance.</li> </ul> <p>Item h:</p> <ul style="list-style-type: none"> <li>- <b>Addition of the word ‘maintain’ as this is a current gap in Councils understanding of this service provision</b></li> </ul> <p>Item i:</p> <ul style="list-style-type: none"> <li>- Addition of this Item to reflect current practice. Noting that the Tenant is responsible for maintenance of such items as part of the Lease or Licence Agreement.</li> </ul> <p>Item l:</p> <ul style="list-style-type: none"> <li>- Addition of this Item relating to security providers to reflect a change in practice that is currently occurring. The Tenant is not expected to be disadvantaged financially from this amendment to operations.</li> </ul> <p>Item m:</p> <ul style="list-style-type: none"> <li>- <b>Addition of “RCS and Switchboard Inspections” to reflect that this is an existing Council Responsibility.</b></li> </ul>
5/6	Maintenance of grass playing surfaces and other leased premises	<p>Amendment to title of section to reflect that the content refers to various playing surfaces, not just grass playing surfaces.</p> <p>a</p> <p><b>Addition of sentence “Where additional services are required by a Tenant, partial cost recovery will be</b></p>

		<p>applied for the additional provision of maintenance <b>services” to address current situations where a</b> Tenant led carnival or other event occurs at a sporting venue and results in increased maintenance service levels and therefore increased costs as a result.</p> <p>Addition of paragraph to reference irrigation responsibilities, which is a reflection of the current state however has not been included in the policy previously.</p> <p><b>Correction of spelling error to the word ‘publicly’.</b></p> <p><b>Addition of “(Eg. regular maintenance program and resurfacing costs)” as an example for maintenance</b> requirements for restricted access hard based playing surfaces. This is reflected in the Lease or Licence agreement and now added to the policy for transparency.</p> <p><b>Addition of words “be responsible for the replacement and repair of” to reflect the level of</b> Council responsibility for repair or replacement of the sub base / base structure at tennis and netball courts and synthetic surfaces. This reflects the current situation being applied to maintenance of these items.</p>
6	Replacement of Synthetic Playing Surfaces	<p><b>Addition of the words “unless otherwise resolved by Council” to reflect that there are existing</b> arrangements that have been endorsed by Council that do not require a Tenant to contribute 50% towards the cost of a synthetic playing surface replacement.</p>
7/8	End of Life Asset Replacement and Renewal	<p>This section is a new addition to the policy aimed at addressing the increasing requests for asset renewal or replacement at leased or licenced facilities, and is added in the absence of a standalone policy position regarding Tenant capital contributions towards asset replacement or renewal.</p> <p>This section also makes clear that asset renewal or replacement requests are subject to Council endorsement and the prioritisation of resources (financial and human resources).</p>

		Also included is reference to standard requirements, such as state or national sport facility guidelines, to ensure endorsed asset replacements are designed reasonably.
8	Signage and Sponsorship	<p>This section is a new addition to the policy to ensure requests related to building, reserve name and naming rights signage are addressed as per the existing Signage and Entrance Statement Policy.</p> <p>The addition of Tenant responsibilities, Items a through d, address current concerns and queries being received by the community or council staff and/or Elected Members regarding leased premises and graffiti, maintenance and approval compliance (Council, development and/or building approval).</p> <p>Sponsorship related to political parties has also been addressed in response to recent enquiries from Elected Members.</p>
12/13	Definitions	<p>Addition of two new definitions (Commercial, and Sporting and Community Organisation Group) to assist in the interpretation of the Policy.</p> <p>Amendment to definition of Retail Shop at the recommendation of Council lawyers.</p>
14	Development Act	Removal of reference to Development Act as this has been repealed.
14/15	Retail and Commercial Leases Act	Addition of wording to reflect recent amendments to the Act. Wording provided by Council lawyers.
15	Crown Land Management Act 2009	Addition of wording to reflect recent amendments to the Act. Wording provided by Council lawyers.
15/16	Other references	<p>Addition of reference to External Grant Funding Policy and Signage and Entrance Statement Policy.</p> <p>Addition of two external document references to reflect required compliance with <i>Ministers Specifications - SA 76 (2015)</i> and <i>Building Code of Australia</i>.</p> <p>The <i>Ministers Specifications - SA 76 (2015)</i> sets out the standards or other requirements for the installation, maintenance and testing of items classed as essential safety provisions.</p>



		The <i>Building Code of Australia</i> contains technical provisions for the design and construction of buildings and structures.
16	Strategic Plan	<b>Strategic objectives updated to reflect Council's Strategic Plan 2025.</b>
Changes during or after GPC Meeting for Council Meeting [date]		

Supporting Information

Attachments

1. [Leases and Licences for Sporting and Community Organisations Policy - Reviewed for GPC 6 July 2022](#) ..... 98

# Leases and Licences for Sporting and Community Organisations Policy



Record number	D22/31506
Responsible Manager	Manager Recreation & Leisure Services
Other key internal stakeholders	<p>Director Assets &amp; Environment</p> <p>Director Community &amp; Cultural Development</p> <p>Manager Community Development and Engagement</p> <p>Manager Wellbeing</p> <p>Manager Parks Operations</p> <p>Manager Buildings Assets &amp; Environment</p> <p>Group Coordinator, Civil &amp; Buildings Projects</p> <p>Group Coordinator, Operations, Fleet &amp; Property</p> <p>Group Coordinator, Water, Waste &amp; Environment</p> <p>Water Resources Specialist</p> <p>Manager Civil &amp; Water Operations</p> <p>Manager Finance and Rating Operations</p>
Last reviewed	
Adoption reference	
Resolution number	
Previous review dates	22/10/2019, 8/11/2016, (amended 13/5/2014), 8/10/2013
Legal requirement	N/A
Due date next review	2025

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## 1. PURPOSE

The purpose of this policy is to establish a set of clear guidelines for the consideration of applications for the granting of leases or licenses to sporting and community groups on community land.

This policy will determine the criteria Council Administration use to assess and grant a lease or licence; or renew a lease or licence, for up to a total five year term. All community or sporting groups that seek a lease or licence ~~leases~~ longer than the five years, or seek additional special conditions, will be considered by Council prior to proceeding to community engagement if required under the *Local Government Act 1999*.

## 2. POLICY

Council will consider the granting of a lease or licence for any suitable land, venue or facility to groups, organisations or residents, in light of the following:

- a. Equitable needs based distribution of facilities and land
- b. Ensuring high occupancy rates for facilities
- c. Ensuring consistent tenure conditions
- d. Defining responsibilities and costs associated with the construction, maintenance and operation of facilities
- e. Acknowledging the value of community organisations through the development of partnerships and shared values in the development of healthy and sustainable communities.
- e.f. The intended use is in accordance with the Community Land Management Plan (CLMP), Council's Strategic Plan and any relevant Council strategies as well as suiting the purpose of the community facility and adjacent community infrastructure.

Council will only enter into a lease or licence agreement under this Policy, once the club or organisation can demonstrate that:

- g. It is a not for profit organisation under Australian Tax Office definitions
- h. It is an incorporated body (i.e. an incorporated association) or other legal entity. Neither a trust nor a business name are legal entities capable of entering into a lease or licence
- i. It has an Australian Business Number (ABN) if required.
- j. It is financially viable by providing three years of annual financial statements to Council
- k. It has a prepared business plan and strategic plan, as well as ~~and~~ a structured committee that holds regular meetings and represents users of the local community
- l. It can demonstrate capacity to maintain the facilities in accordance with the agreement
- m. It complies with relevant legislation and regulations governing its activities.

### 2.1 Exclusions

This Policy relates to community groups that are eligible not for profit enterprises, educational institutions of an early learning focus, kindergarten's and schools (primary or secondary). All other leases and or licences will be based upon market conditions at the point in time that a lease is negotiated and will be assessed outside of this Policy.

Community groups that use the premises for gambling activities including totalisator operations and/or electronic gaming machines will not be entitled to a lease or licence in accordance with this Policy.

Commercial leases or licences with Council are not bound by this Policy and will be subject to separate negotiations outside of this Policy.

Sporting and Community Organisations who have increased capacity to generate revenue from the use of the facility or from other activities consistent with its purpose will be evaluated prior to lease award or renewal for eligibility against the attached Subsidy Criteria. Evaluation will take into account factors including percentage of overall revenue based on audited annual financial reports for player payments, paid staff/personnel and quantity of volunteer positions.

## 2.2. Licences and/or Leases on sites whereby the Tenant ~~lease only~~ occupies a portion of the building

Council may grant a lease or licence over a portion of a building, venue or facility.

The fee structure applied to a licence will attract a higher initial fee than that of a lease, as a licence incorporates a portion of costs incurred for utilities and other outgoings. Fees will be determined in accordance with the attached sSubsidy eCriteria and in consideration of the times of use granted.

A licence may be suitable for multi-use facilities, provided that:

- a. An appropriate agreement is in place
- b. Each Tenant licensee is responsible for payment of a licence fee to Council representing their share of the cost of maintenance and outgoings relating to the facility
- c. The proportioned payment for each Tenant licensee has been determined:
  - i. by the proportion of the square meterage of the facility that is used by the Tenant licensee; or
  - ii. if the Tenants licensee's use the same area, but at or for different times - then determined by the proportion of time each Tenant licensee uses the premises relative to the other licensee(s).

## 2.3. Leases

The following conditions apply in relation to the leasing of an entire building, venue or facility, exclusively occupied by a sporting or community organisation. These conditions may also be applicable in relation to a licence of an ancillary venue or facility associated with the leased building (such as an oval or playing surface).

### 2.3.1 Tenant Responsibility

The Tenant will be responsible for:

- a. Entering into a formal lease agreement with the Council
- b. All day-to-day repairs and maintenance of a non-capital nature as specified in the lease agreement (e.g. Emergency Service Provisions, fire and safety maintenance, replacement of

- light globes, washers, taps, regular gutter cleaning, maintenance of heating/cooling systems, carpet repairs/replacement/cleaning, waste disposal costs above Council provisions, club/sport specific signage, graffiti removal within the leased premises, internal painting and Property, Plant and Equipment)
- ~~b-c.~~ Ancillary facilities (eg. sight screens, scoreboards, back netting, coaching boxes) will be the responsibility of the Tenant to fund and maintain.
- ~~e-d.~~ Public liability and contents insurance
- ~~d-e.~~ All direct outgoings as specified in the lease agreement (e.g. electricity, water (buildings) and gas and other identified costs such as cleaning, Residual Current Device (RCD) inspections and Essential Safety Provisions (e.g. maintenance and/or inspections pertaining to automatic sliding doors, kitchen canopies, emergency and exit lighting etc))
- ~~e-f.~~ Selecting their gas retailer and paying associated costs (if applicable)
- ~~f-g.~~ Electrical tagging and testing
- ~~g-h.~~ Selecting their electricity retailer and contracting directly with that retailer for the supply of electricity and paying associated costs including installation of necessary meter(s)
- ~~h-i.~~ Ensuring compliance with the *Liquor Licensing Act 1997* and evidence of training and development by the club through recognised good governance programs if a licensed venue (eg. Office for Recreation, Sport and Racing's Goodsports or StarClub program)
- ~~i-j.~~ Seeking approval from the lessor for any changes or improvements to fixtures or fittings, or structure amendments
- ~~k.~~ Seeking Council approval prior to sub licencing of any grassed based playing surfaces which are also accessible to the community
- ~~j-l.~~ Complying with all relevant legislation, regulations and standards in respect of the facilities contained under their lease agreement (e.g. hazardous substances, building codes)
- ~~k-m.~~ Removal of weeds within the lease area and/or adjoining carpark spaces
- ~~l-n.~~ Maintenance of hard or synthetic playing surfaces, including line marking requirements
- ~~m-o.~~ Complying with any restrictions regarding the use of at the playing surface
- ~~n-p.~~ Displaying posters or information in prominent areas about current societal issues when required by Council.
- ~~q.~~ Establishment of a sinking fund for any required financial contribution to the future replacement of synthetic playing surfaces (if applicable to the site)
- ~~r.~~ Acknowledgement of Council as the primary sponsor / provider of a leased or licenced facility

Council may elect to undertake certain repairs and maintenance items and on charge the cost to the Tenant, subject to prior liaison with the Tenant.

A Tenant may hire out (via a hire agreement) ~~out~~ the leased facility providing that this is in accordance with their lease agreement. Any fees charged must not be higher than Council's Fees and Charges register. Formal subleasing and assignment of leases will be considered by Council on a case by case basis.

Where a Tenant wishes to enter into a sub-lease, hire arrangement or licence to a commercial activity, approval must first be received from Council's delegate (or CEO) pursuant to section 200(1) of the Local Government Act 1999, prior to entering into the arrangement. The Tenant will be required to charge a commercial rate as per Council's Fees and Charges Register and return the differential between the community hire rate and commercial hire rate to Council.

The Tenant may apply to Council for financial assistance to upgrade a leased / licensed facility, in accordance with Council's External Capital Works Application process.

At the termination of a lease or licence and immediately prior to vacating the premises, the Tenant must complete all necessary repairs and/or maintenance on the premises required to restore the property to the reasonable satisfaction of Council.

### 2.3.2 Council Responsibility

Council will Provide the Tenant with a point of contact within Council:

- a. Nominate and be responsible for building insurance
- b. Nominate the water provider
- c. Carry out inspections of the facility twice yearly, and at other times as considered appropriate. Any works identified in these inspections that is deemed to be the responsibility of the Tenant must be completed within an agreed timeframe by a licensed/suitable tradesperson. If the work is not completed within this timeframe Council will undertake the work and recoup all costs from the Tenant
- d. Be responsible for trade waste and range hood inspections and maintenance and recharge the applicable costs to the Tenant
- ~~e.e.~~ Responsible for maintenance and inspections relating to Essential Safety Provision and fire and safety maintenance and recharge applicable costs to the Tenant
- ~~d.f.~~ Be responsible for structural repairs (to provide weather proofing as a minimum)
- ~~e.g.~~ Maintain trees and vegetation within a precinct
- i. Arrange for the completion of maintenance obligations of the Tenant, at the expense of the Tenant (should the Tenant request council to complete the work and/or the Tenant fails to complete the work in accordance with any lease or licence agreement)
- h. Repair, maintain and replace carparks
- ~~f.i.~~ Replace existing end of life or failed fixed air conditioning/heating systems (eg. ducted or split system)
- ~~g.i.~~ Provide external painting of shared use facilities-
- k. Provide direction to the Tenant regarding any playing surface restrictions (eg. to balance usage with surface maintenance requirements)
- l. Be responsible for nominating the security provider (for alarmed sites) and transitioning facilities to Council's nominated provider (if different) over an agreed time period with the Tenant, and recharging monitoring costs to the Tenant
- m. RCD and Switchboard Inspections

Council's responsibility may be subject to the prioritisation of resources.

### ~~2.3.3 2.3.3~~

### ~~2.3.3. Maintenance of grass playing surfaces and leased premises~~

Council will undertake the grass cutting of playing surfaces where the playing surface is freely open to the public for passive recreational activities.

Maintenance of grass playing fields for surfaces freely open to the public for passive recreational activities will be undertaken by Council in accordance with horticultural maintenance standards to be established for each reserve within the terms of the lease or license. Where additional services are required by a Tenant, partial cost recovery will be applied for the additional provision of maintenance services.

Grass cutting and maintenance of playing surfaces of a specialist nature will be undertaken by the lessee (e.g. bowling and croquet greens, turf cricket wickets, closed sporting facilities), at the Lessee's expense.

Irrigation infrastructure is the responsibility of Council to maintain and replace on publicly accessible playing surfaces, however if a Lessee requires specialist irrigation assets they will be required to contribute financially to an infrastructure upgrade (e.g. turf cricket pitch). Irrigation infrastructure for exclusively leased or licenced playing surfaces will be the responsibility of the Tenant to maintain and replace, unless otherwise endorsed by Council and specified in the lease or licence agreement.

100% ~~publically~~ publicly accessible hard based playing surfaces (tennis and netball courts, synthetic surfaces) will be maintained by the Council-

Restricted access hard based playing surfaces (tennis and netball courts, synthetic surfaces) will be maintained (Eg. regular maintenance program and resurfacing costs) by the ~~Tenant~~ lessee unless otherwise stipulated via the terms of the lease.

Council will be responsible for the replacement and repair of ~~maintain~~ the base course for all tennis and netball courts' and synthetic surfaces.

Maintenance of leased premises (excluding buildings and playing surfaces) will be undertaken in accordance with the terms agreed with each club or organisation.

Line marking on grass playing surfaces remains the responsibility of the ~~Tenant~~ Lessee, at the Tenant's ~~Lessee's~~ expense.

#### 2.3.4 Replacement of synthetic playing surfaces

To ensure that sufficient funds are available for the replacement of synthetic playing surfaces, Council will require the Tenant to establish a 'sinking fund'.

It is estimated that an Artificial Grass Pitch (AGP) has a life span of approximately ten to fifteen years depending on factors such as pitch type and quality, usage and maintenance. It is therefore necessary that a mechanism be put in place to recognise this and provide finance to replace the pitch when appropriate.

Each year, the Tenant will be required to quarantine the allocated annual amount into their sinking fund – these funds should not be used for any other purpose or initiative and must be held separately from ~~€C~~clubs day to day finances.

It is expected the Tenant will contribute 50% towards the future cost of the synthetic playing surface replacement, unless otherwise resolved by Council. -

The annual contribution to the sinking fund will be calculated as followings:

$$\text{Annual Contribution} = \text{Cost of Playing Surface Replacement} / \text{Estimated Life of Playing Surface} \times 50\%$$

As the cost of the replacement is in the future, then the sinking fund must account today for a future amount. The annual contribution required by the Tenant will be reviewed bi-annually to ensure the sinking fund reflects the forecast future contribution required.

The bi-annual review will be calculated as followings:

**Step 1** - Future Contribution = Cost of Playing Surface Replacement X 50% less funds held in sinking fund

**Step 2** - Revised Annual Contribution = Future Contribution / Estimated Remaining Life of Playing Surface

The Tenant will be required to submit to Council annually a reconciliation of the sinking fund.

The above will apply to existing facilities, to be phased in over a period not less than two years.

### 2.3.5 Water Costing and Provision

The Tenant will be responsible for all costs and outgoings in relation to water usage and water rates for buildings contained under the lease agreement (e.g. clubrooms and change rooms).

Water costing and water provision for reserves and playing surfaces will be in accordance with the following categories:

- Council will be responsible for water costs for playing surfaces with bore water / mains water and/or recycled water where the general public has access and use of the playing surface. The Tenant will be responsible for all electricity costs associated with the pumping of water and any additional watering above the Council nominated allocation for the site
- The Tenant will be responsible for water costs where there are dedicated playing surfaces which do not allow general public access or use of the playing surface
- Council may consider a remission of watering charges when there are significant trees on the premises and in the vicinity of the watered location. Any requests will be considered on a case by case basis.

Water provision for sites receiving recycled water will be in accordance with Council's Recycled Water Policy. Where required under the Water Industry Act 2012 and ESCOSA, water supply and costing arrangements may be varied to suit.

In the event that the Tenant is availed of a water discount / cost reduction / no water provision charge, Council reserves the right to limit water supply delivery as Council deems appropriate (e.g. drought conditions).

### 2.3.6 End of Life Asset Replacement or Renewal

Asset renewal or redevelopment projects will be based on the relevant asset management plan and end of life asset assessments. Redevelopment will be based on a like for like service/competition level and incorporate compliance with current day standards and facility guidelines (ie. Building Code, State/National Sporting Organisation facility requirements).

Redevelopments over standard requirements or relevant facility guidelines will require the Tenant to fund the difference in cost, unless otherwise approved by Council.



Items of a commercial nature will not be included in the development of community facilities (eg. coolroom), unless otherwise approved by Council.

Significant or total redevelopment projects will require Council consideration and endorsement, as well as a Tenant financial contribution and the receipt of external funding up to 50% of the total redevelopment cost.

Council's financial contribution towards asset replacement or renewal will be subject to the prioritisation of resources and may be allocated for consideration as part of a future financial year capital works budget process.

### **2.3.7 Sports Field Flood Lighting**

The Tenant is responsible for all electricity costs and outgoings for sports field flood lighting. Council will undertake and be responsible for all maintenance of such equipment (e.g. globe replacement and repair of technical faults).

Upgrade, renewal or new installations of sports field flood lighting will be managed in accordance with Councils Sports Field Floodlighting Policy.

### **2.3.8 Signage and Sponsorship**

Council's Signage and Entrance Statement Policy details the requirements related to building, reserve name and naming rights signage.

The Tenant is responsible for ensuring:

- a. All signs in the leased or licenced area are maintained to the satisfaction of the responsible authority
- b. All signs are securely fastened and kept free of graffiti
- c. The months in which sporting club sponsorship signage is displayed is related to the seasonal allocation of the ground (if applicable)
- d. All signage installed by the Tenant obtains Council approval (as owner), development and/or building approval) prior to installation.

Sponsorship related to political parties is permitted; however, the Tenant must ensure an impartial approach and consider sponsorship of either political party, if approached.

Building name signage for exclusively leased facilities is the responsibility of the Tenant, however the Tenant must obtain approval from Council as owner, as well as any development approval required, prior to finalising a design or installing signage on the building.

~~2.3.8~~**2.3.9 Tenure Arrangements**

Council's model is predicated on a ten year incentive for capital investment. On this basis the maximum term available under Council's subsidy criteria will be a term of 10 years. Any requests for terms greater than 10 years based will be considered on a case by case basis.

All community or sporting groups that seek leases longer than the five years, or seek additional special conditions, will be considered by Council prior to proceeding to community engagement (if necessary) as per section 202 of the *Local Government Act 1999*.

Should a new organisation or group seek to occupy land owned by Council, which they have not previously occupied, any offer of a lease and/or licence greater than a period of eight (8) months will be presented to Council for consideration.

Rights of renewal will only be offered to a maximum occupancy of 10 years and will be subject to community engagement.

Council will include in the standard lease / license agreement a right for the Tenant to terminate their lease / license by way of mutual agreement with a three month notice period.

The annual lease / licence fee will be calculated at 6% of the current written down value of the leased areas as per Council's Asset Register.

The Subsidy Criteria set out in Attachment 1 will be used by Council to assess the level of subsidy applied to reduce the calculated annual lease / licence fee.

The lease/licence fee determined will be in place for the length of tenure, and will be indexed by the Consumer Price Index on an annual basis.

Clubs and organisations receiving an increased leased fee under the new model will have any increase phased in over a period of three years as shown below:

- a. Year 1 of the lease = 25% of the increase of the annual lease fee (after subsidies have been applied)
- b. Year 2 of the lease = 50% of the increase of the annual lease fee (after subsidies have been applied)
- c. Year 3 of the lease = 100% of the increase of the annual lease fee (after subsidies have been applied)

**~~3. LEGISLATIVE FRAMEWORK~~****~~3.1. Emergency Procedures~~**

~~All buildings must have in place adequate emergency management, warning and evacuation procedures. This includes appropriate location of operable hose reels, fire hydrants, fire extinguishers, fire blankets, alarms and emergency / exit lighting. All facilities must have clearly visible and easy to follow warning and evacuation procedures. The lessee is responsible for compliance of maintenance of such items, unless otherwise agreed with Council.~~

~~Council will be responsible for developing and providing to the lessee emergency evacuation plans for the premises. The Lessee will be responsible for developing compliant emergency evacuation procedures.~~

~~The following legislation applies to this policy: \_\_\_\_\_~~

~~Local Government Act 1999~~

~~Section 49 of this Act requires Council to prepare and adopt a policy on contracts and tenders, including a policy on the sale and disposal of land or other assets.~~

~~Section 196 of this Act requires Council to prepare, publicly consult, and adopt one or more Community Land Management Plan(s) (CLMP) for its community land if among other things the land is, or is to be, occupied under a lease or licence agreement.~~

~~Section 201 of this Act prohibits Council from leasing or licensing community land unless Council does so in accordance with the Act, including those sections of the Act mentioned below.~~

~~Section 202 of this Act permits Council to grant a lease or licence over community land (including community land that is, or forms part of, a park or reserve). Prior to Council granting a lease or licence relating to community land, it must follow the relevant steps as detailed in Councils Community Engagement (Public Consultation) Policy, except where:~~

- ~~a. (a) The grant of the lease or licence is authorised in an approved management plan for the land and the term of the proposed lease or licence is five years or less; or~~
- ~~b. (b) The regulations provide, in the circumstances of the case, for an exemption from compliance with a public consultation policy.~~

~~Section 202 also places restrictions on Council's power to grant a lease of licence including that a lease or licence may only be granted for a term not exceeding 42 years and the lease or licence may be extended but not so that the term extends beyond a total of 42 years. However a new lease or licence may be granted at the expiration of the 42 year term (subject to the other requirements of the Act or any other law).~~

~~Development Act~~

~~Where a lease or licence is to be granted for a term greater than six years and is for a portion of an allotment where there is no building that is both suitable and used for human occupation (e.g. reserve with no clubrooms), the lease or licence constitutes the division of an allotment and requires approval under this Act.~~

~~Retail and Commercial Leases Act 1995~~

~~This Act applies to both leases and licences, granted by the Council to a lessee or a licensee, if the lease or licence is in respect of a "retail shop" (see section 4 of the Act).~~

~~However, following recent amendments, the Act will not apply to a lease or licence granted by Council where the amount of rent payable does not exceed \$50,000.00 per annum and the lessee or licensee:~~

- ~~— is registered under the Australian Charities and Not for profits Commission Act 2012 of the Commonwealth; or~~

- ~~— is an entity that is not carried on for the purposes of profit or gain to its individual members and that is, by the terms of its constitution, prohibited from making any distribution, whether in money, property or otherwise, to its members; or~~
- ~~— uses the premises the subject of the lease for the provision of health, welfare, community, cultural, sporting or recreational activities on a non-commercial basis.~~

There are a number of other exemptions where the Act does not apply (see section 4(2) of the Act).

If the Act applies, it imposes a number of obligations on Council as lessor. Some of these obligations are as follows:

- a. ~~A disclosure statement must be given to the lessee / licensee before a lease / licence is granted or renewed / extended (section 12 of the Act)~~
- b. ~~Council cannot impose a requirement or obligation for the lessee / licensee to make capital expenditure except in limited circumstances (section 13 of the Act)~~
- c. ~~The lessee / licensee must be given a minimum 5 year term (section 20B of the Act) unless the lessee / licensee obtains an 'exclusionary certificate' (section 20K of the Act) or the lease / licence falls within an exemption (see section 20B(3) of the Act)~~
- d. ~~Council must not less than 6 months, but not more than twelve months, prior to the end of the term give the lessee / licensee written notice either offering a renewal or extension of the lease / licence or informing the lessee / licensee that Council does not propose to offer a renewal or extension of the lease (section 20J of the Act)~~
- e. ~~Council must provide estimates and explanations of outgoings (section 31 of the Act) and must provide written reports (prepared by a company auditor) of all expenditure by the Council toward which the lessee / licensee is required to contribute during an "accounting period" (section 32 of the Act).~~

#### Crown Land Management Act 2009

This Act applies to Crown land of which the Council has care, control or management:

Section 22 of this Act requires Council to obtain Ministerial consent to a lease, before the lease is granted to the lessee. If consent is not obtained, the lease is of no effect.

The Minister's consent is not required in relation to a lease of dedicated land by Council in accordance with section 202 of the Local Government Act 1999 if:

- ~~— native title in the land has been extinguished or Council is satisfied that the grant of the lease will not affect native title; and~~
- ~~— the lease will not cause any development (within the meaning of the Planning, Development and Infrastructure Act 2016); and~~
- ~~— Council is satisfied that the grant of the lease:~~
  - ~~— would not detract from any existing public use and enjoyment of the land; and~~
  - ~~— would not prevent the land being used for the purpose for which it was dedicated; and~~
  - ~~— would not otherwise, in the opinion of Council, be improper or undesirable.~~

The Minister's consent is not required in relation to the grant of a licence in relation to dedicated land if the custodian of the dedicated land (i.e. Council) is satisfied that the grant of the licence:

- ~~— would not detract from any existing public use and enjoyment of the land; and~~
- ~~— would not prevent the land being used for the purpose for which it was dedicated; and~~

~~— would not otherwise, in the opinion of Council, be improper or undesirable.~~

### 3.2. Other references

Council's documents including:

- a. ~~Asset Register~~
- ~~— Community Engagement (Public Consultation) Policy~~
- b. ~~External Grant Funding Policy~~
- ~~— Fees and Charges Register~~
- c. ~~Signage and Entrance Statement Policy~~
- d. ~~Sports Field Floodlighting Policy~~
- e. ~~Recycled Water Policy~~
- f. ~~External Capital Works Application process~~
- g. ~~Open Space Asset Management Plan~~
- h. ~~Open Space Policy~~

External documents including:

- a. ~~Electricity Act 1996~~
- b. ~~Electricity (General) Regulations 2012~~
- c. ~~Liquor Licensing Act 1997~~
- d. ~~National Electricity (South Australia) Act 1996~~
- e. ~~National Energy Retail Law (South Australia) Act 2011~~
- ~~— Water Industry Act 2012~~
- ~~— Minister's Specification – SA 76 (2015)~~
- ~~— Building Code of Australia~~

### 3. DEFINITIONS

For the purposes of this policy the following definitions apply.

CLMP

Community Land Management Plan.

Commercial

An organisation, including incorporated body, co-operative society, partnership or sole trader conducting activities for the purposes of deriving a financial return to the proprietors or shareholders.

Sporting and Community Organisation / Group

A not for profit organisation that exists exclusively for charitable purposes or as an amateur sporting group, arts, craft or other special interest group established for the benefit of the community of the City of Tea Tree Gully. Primarily voluntary staff (including officials and coaches) and/or committee.

Differentiating between a Lease and Licence

The right of exclusive use is the prime consideration in determining whether an agreement is deemed a lease or licence. An example of where a licence is appropriate is where two groups share a multi-use facility and neither therefore has exclusive use, and in such a circumstance a licence is the appropriate agreement.

ESCOSA

Essential Services Commission of South Australia.

Lease

A contractual agreement by which one party (lessor) conveys a leasehold estate in land to another party (lessee), for a specified term, subject to various conditions. The lessor still retains ownership of the property.

Licence

A contractual agreement by which one party (licensor) grants a contractual right to occupy land to another party (licensee), for a specified term, which may also only permit the licensee to occupy the land during specified hours on specified days during the term, subject to various conditions. The licensor still retains ownership of the property. The licensor does not grant a leasehold or other legal interest in the land.

Retail Shop

Business premises at which goods are sold to the public by retail, or at which services are provided to the public or to which the public is invited to negotiate for the supply of services. This definition is broad and subject to the exception in section 4(2)(g) many community leases and licences would otherwise be subject to the Retail and Commercial Leases Act 1995.

Tenant

An entity that pays a fee to use or occupy land, a building, or other property owned by another. This Policy refers to the Lease or Licence holder as the Tenant.

## 4. LEGISLATIVE FRAMEWORK

### 4.1. Emergency Procedures

All buildings must have in place adequate emergency management, warning and evacuation procedures. This includes appropriate location of operable hose reels, fire hydrants, fire extinguishers, fire blankets, alarms and emergency / exit lighting. All facilities must have clearly visible and easy to follow warning and evacuation procedures. The lessee is responsible for compliance of maintenance of such items, unless otherwise agreed with Council. Council will be responsible for developing and providing to the lessee emergency evacuation plans for the premises. The Lessee will be responsible for developing compliant emergency evacuation procedures.

The following legislation applies to this policy:

Local Government Act 1999

Section 49 of this Act requires Council to prepare and adopt a policy on contracts and tenders, including a policy on the sale and disposal of land or other assets.

Section 196 of this Act requires Council to prepare, publicly consult, and adopt one or more Community Land Management Plan(s) (CLMP) for its community land if among other things the land is, or is to be, occupied under a lease or licence agreement.

Section 201 of this Act prohibits Council from leasing or licensing community land unless Council does so in accordance with the Act, including those sections of the Act mentioned below.

Section 202 of this Act permits Council to grant a lease or licence over community land (including community land that is, or forms part of, a park or reserve). Prior to Council granting a lease or licence relating to community land, it must follow the relevant steps as detailed in Councils Community Engagement (Public Consultation) Policy, except where:

- a. The grant of the lease or licence is authorised in an approved management plan for the land and the term of the proposed lease or licence is five years or less; or
- b. The regulations provide, in the circumstances of the case, for an exemption from compliance with a public consultation policy.

Section 202 also places restrictions on Council's power to grant a lease of licence including that a lease or licence may only be granted for a term not exceeding 42 years and the lease or licence may be extended but not so that the term extends beyond a total of 42 years. However a new lease or licence may be granted at the expiration of the 42 year term (subject to the other requirements of the Act or any other law).

Development Act

Retail and Commercial Leases Act 1995

This Act applies to both leases and licences, granted by the Council to a lessee or a licensee, if the lease or licence is in respect of a "retail shop" (see section 4 of the Act).

However, following recent amendments, the Act will not apply to a lease or licence granted by Council where the amount of rent payable does not exceed \$50,000.00 per annum and the lessee or licensee:

- a. is registered under the Australian Charities and Not-for-profits Commission Act 2012 of the Commonwealth; or
- b. is an entity that is not carried on for the purposes of profit or gain to its individual members and that is, by the terms of its constitution, prohibited from making any distribution, whether in money, property or otherwise, to its members; or
- c. uses the premises the subject of the lease for the provision of health, welfare, community, cultural, sporting or recreational activities on a non-commercial basis.

There are a number of other exemptions where the Act does not apply (see section 4(2) of the Act). If the Act applies, it imposes a number of obligations on Council as lessor. Some of these obligations are as follows:

- a. A disclosure statement must be given to the lessee / licensee before a lease / licence is granted or renewed / extended (section 12 of the Act)
- b. Council cannot impose a requirement or obligation for the lessee / licensee to make capital expenditure except in limited circumstances (section 13 of the Act)
- c. The lessee / licensee must be given a minimum 5 year term (section 20B of the Act) unless the lessee / licensee obtains an 'exclusionary certificate' (section 20K of the Act) or the lease / licence falls within an exemption (see section 20B(3) of the Act)
- d. Council must not less than 6 months, but not more than twelve months, prior to the end of the term give the lessee / licensee written notice either offering a renewal or extension of the lease / licence or informing the lessee / licensee that Council does not propose to offer a renewal or extension of the lease (section 20J of the Act)
- e. Council must provide estimates and explanations of outgoings (section 31 of the Act) and must provide written reports (prepared by a company auditor) of all expenditure by the Council toward which the lessee / licensee is required to contribute during an "accounting period" (section 32 of the Act).

#### Crown Land Management Act 2009

This Act applies to Crown land of which the Council has care, control or management.

Section 22 of this Act requires Council to obtain Ministerial consent to a lease, before the lease is granted to the lessee. If consent is not obtained, the lease is of no effect.

The Minister's consent is not required in relation to a lease of dedicated land by Council in accordance with section 202 of the Local Government Act 1999 if:

- a. native title in the land has been extinguished or Council is satisfied that the grant of the lease will not affect native title; and
- b. the lease will not cause any development (within the meaning of the Planning, Development and Infrastructure Act 2016); and
- c. Council is satisfied that the grant of the lease:
  - i. would not detract from any existing public use and enjoyment of the land; and
  - ii. would not prevent the land being used for the purpose for which it was dedicated; and
  - iii. would not otherwise, in the opinion of Council, be improper or undesirable.

The Minister's consent is not required in relation to the grant of a licence in relation to dedicated land if the custodian of the dedicated land (i.e. Council) is satisfied that the grant of the licence:

- a. would not detract from any existing public use and enjoyment of the land; and
- b. would not prevent the land being used for the purpose for which it was dedicated; and
- c. would not otherwise, in the opinion of Council, be improper or undesirable.

## 4.2. Other references

Council's documents including:

- a. Asset Register
- b. Community Engagement (Public Consultation) Policy
- c. External Grant Funding Policy
- d. Fees and Charges Register
- e. Signage and Entrance Statement Policy
- f. Sports Field Floodlighting Policy
- g. Recycled Water Policy



- [h. External Capital Works Application process](#)
- [i. Open Space Asset Management Plan](#)
- [j. Open Space Policy](#)

External documents including:

- [a. Electricity Act 1996](#)
- [b. Electricity \(General\) Regulations 2012](#)
- [c. Liquor Licensing Act 1997](#)
- [d. National Electricity \(South Australia\) Act 1996](#)
- [e. National Energy Retail Law \(South Australia\) Act 2011](#)
- [f. Water Industry Act 2012](#)
- [g. Minister's Specification - SA 76 \(2015\)](#)
- [h. Building Code of Australia](#)

## 5. STRATEGIC PLAN/POLICY

### 5.1 Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:

<u>Objective</u>	<u>Comments</u>
<u>Community</u>	
<u>People feel a sense of belonging, inclusion and connection with the City and the community</u>	Community buildings support the health and wellbeing of our community.
<u>Diversity is welcome and celebrated</u>	
<u>There are opportunities for people to volunteer, give back and share their skills with others</u>	
<u>Our services are accessible to all and respond to changing community needs</u>	
<u>People can have a say in decisions that affect them and the key decisions of the Council</u>	
<u>Environment</u>	
<u>Environmentally valuable places and sites that are flourishing and well-cared for</u>	
<u>A community that is protected from public and environmental health risks</u>	Community participation in active pursuits increases through good quality, well-designed and well-utilised facilities.
<u>The carbon footprint of our city is reduced through the collective efforts of community and Council, including businesses</u>	
<u>Our consumption of natural resources is minimized by reducing, reusing and recycling products and materials, and using renewable resources</u>	

<u>We are resilient to climate change and equipped to manage the impact of extreme weather events</u>	
<u>Our tree canopy is increasing</u>	

<u>Economy</u>	
<u>Modbury Precinct is revitalised as the city's key activity</u>	
<u>A population profile that supports a growing economy</u>	
<u>A local economy that is resilient and thrives, where businesses are supported to grow and prosper, provide local jobs and sustain our community and visitors and utilize technology to improve the livability of our city</u>	
<u>People are supported to develop their leadership and employment capabilities</u>	
<u>Support the efficient use of land for valuable mineral extraction and energy resources</u>	
<u>Places</u>	
<u>Streets, paths, open spaces and parks are appealing, safe and accessible</u>	
<u>Opportunities exist to express and experience art and culture</u>	
<u>Neighbourhoods are easy to move around and are well connected with pedestrian and cycle paths that offer an alternative to cars</u>	
<u>Buildings and places are energy efficient, well designed and display a uniqueness of character and identity</u>	
<u>Housing is well designed and affordable and responds to the changing needs of existing and future residents</u>	
<u>Infrastructure and community facilities are fit for purpose, constructed using sustainable practices and well maintained</u>	Good quality and well maintained facilities create a vibrant and liveable city.
<u>Leadership</u>	
<u>Leadership and advocacy is focused on the long term interests of the community</u>	
<u>Customer service provides a positive experience for people and is based on honesty and transparency</u>	
<u>Planning considers current and future community needs</u>	
<u>Delivery of services is sustainable and adaptable</u>	
<u>Decision making is informed, based on evidence and is consistent</u>	
<u>Major strategic decisions are made after considering the views of the community</u>	
<u>[remove aspirations that are not relevant]</u>	

## 5.2 Organisation Plan

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

## 6. POLICY IMPLEMENTATION

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

### 3. STRATEGIC PLAN/POLICY

#### 4.1. Strategic Plan

Theme	Objective	Comments
HEALTHY AND SAFE	<i>A community where people have easy access to places, spaces and services that support good health.</i>	Our community is healthy and safe
PROSPEROUS AND CONNECTED	<i>A community that participates in meaningful community and economic activities.</i>	Our local economy prospers and people feel a sense of purpose and belonging
VIBRANT AND LIVEABLE	<i>A city that is made up of places and spaces that are appealing and easy to access. A place that expresses a unique character and identity, an area that inspires pride in its residents and one that people enjoy visiting.</i>	Our city is a desirable and sustainable place to live

Leases and Licences enable a Club to continue operating in the City of Tea Tree Gully and provide a facility that is valued by club members, is unique in this city and supports community participation in activities that support good health.

## ~~—Policies~~

~~Council's Community Engagement Public Consultation Policy determines the nature and extent of community engagement required for this matter.~~

~~Council's Open Space Policy describes the principles and framework that guides the provision, development and management of accessible and diverse open spaces that maintain and improve sustainable environmental outcomes and our community's individual and collective health and wellbeing.~~

~~Council's Sports Field Floodlighting Policy describes Council's position in regard to the installation and maintenance of sports floodlighting to Council owned properties. This Policy determines the level of financial contribution that will be made by Council and the relevant sporting and community organisations towards new or upgrade lighting.~~

## ~~a. Organisation Plan~~

~~Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of organisational excellence. The themes most relevant to this report are: People and Leadership; Customers and community relations; Governance; Finance and systems, Continuous improvement.~~

## ~~4. DEFINITIONS~~

~~For the purposes of this policy the following definitions apply.~~

~~CLMP~~

~~Community Land Management Plan.~~

~~Commercial~~

~~An organisation, including incorporated body, co-operative society, partnership or sole trader conducting activities for the purposes of deriving a financial return to the proprietors or shareholders.~~

~~Sporting and Community Organisation / Group~~

~~A not for profit organisation that exists exclusively for charitable purposes or as an amateur sporting group, arts, craft or other special interest group established for the benefit of the community of the City of Tea Tree Gully. Primarily voluntary staff (including officials and coaches) and/or committee.~~

~~Differentiating between a Lease and Licence~~

~~The right of exclusive use is the prime consideration in determining whether an agreement is deemed a lease or licence. An example of where a licence is appropriate is where two groups share a multi-use facility and neither therefore has exclusive use, and in such a circumstance a licence is the appropriate agreement.~~

~~ESCOSA~~~~Essential Services Commission of South Australia.~~~~Lease~~~~A contractual agreement by which one party (lessor) conveys a leasehold estate in land to another party (lessee), for a specified term, subject to various conditions. The lessor still retains ownership of the property.~~~~Licence~~~~A contractual agreement by which one party (licensor) grants a contractual right to occupy land to another party (licensee), for a specified term, which may also only permit the licensee to occupy the land during specified hours on specified days during the term, subject to various conditions. The licensor still retains ownership of the property. The licensor does not grant a leasehold or other legal interest in the land.~~~~Retail Shop~~~~Business premises at which goods are sold to the public by retail, or at which services are provided to the public or to which the public is invited to negotiate for the supply of services. This definition is broad and subject to the exception in section 4(2)(g), many community leases and licences are would otherwise be subject to the Retail and Commercial Leases Act 1995. For example, a lease to a local sports / community club who conduct weekly sausage sizzles or operate canteens will be caught by the Retail and Commercial Leases Act 1995.~~~~Tenant~~~~An entity that pays a fee to use or occupy land, a building, or other property owned by another. This Policy refers to the Lease or Licence holder as the Tenant.~~~~4. 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.~~~~5. ACCESSIBILITY~~~~This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: [www.cttg.sa.gov.au](http://www.cttg.sa.gov.au)~~~~Hard copies, for a fee, can be provided in accordance with Council's Fees and Charges Register at Council's Civic Centre at 571 Montague Road, Modbury SA 5092.~~

Attachment 1

## 7. SUBSIDY CRITERIA

Council offers subsidies on the annual rent fee for eligible tenants. The eligibility criteria for each category are summarised in the table below.

Subsidy Criteria	%
The organisation can demonstrate that they are responsible tenants who have complied with the condition of current or previous lease or licence agreements with Council	20%
The organisation can demonstrate through its audited annual financial reports that it has limited capacity to generate revenue from the use of the facility or from the other activities consistent with its purpose	15%
The organisation can demonstrate that the use of the facility will increase social inclusion, community participation and/or will promote health and wellbeing of the City of Tea Tree Gully community	10%
The organisation provides an annual plan to Council detailing the use of the facility including anticipated opening hours and participant and or membership numbers	10%
The organisation can demonstrate that use of the facility is consistent with Council's strategic plan	5%
The organisation can demonstrate that the activity or service they provide is non-discriminatory and is open to all residents who meet clearly stated criteria for participation	5%
The organisations can demonstrate that it promotes and supports volunteerism	5%
Shared use of the facility by general public or other community clubs and organisations (any fees charged must not be higher than Council's fees and charges register)	15%
<b>Maximum subsidy available</b>	85%
Council will offer a further subsidy to recognise the capital contribution of lessee / licensee (up to last 10 years)(Contribution can be grant funded) *note: max subsidy 100%	1% for every \$5,000 contributed (max of \$250K) * (note: max subsidy 100%)

In-kind or volunteer contributions will be assessed at the market rate of what the cost would be in the event that the organisation or club completed these works with a third party organisation.



City of Tea Tree Gully  
Governance and Policy Committee

Document Cover Sheet

25 JULY 2022

## CHILDREN AND VULNERABLE PERSONS POLICY

Responsible Manager: Manager Organisational Development

The Children and Vulnerable Persons Safe Environment Policy has been comprehensively reviewed to incorporate the requirements of the [National Principles for Child Safe Organisations](#) which were implemented in SA from 1 July 2021.

They are a set of 10 nationally agreed child safe standards that child safe environments policies need to align with.

The Standards for dealing with information '*obtained about a person's criminal history as part of a relevant history assessment*' which operated under the former *Children's Protection Act 1993* are also no longer in place. Under current legislation an organisation will not have access to criminal history information via a Working with Children Check (WWCC).

Organisations will only know the person's prohibited or not prohibited status. In this way the WWCC differs from police clearances.

### RECOMMENDATION

That the "Children and Vulnerable Persons Policy" **as reviewed by** the Governance and Policy Committee on 25 July 2022 be adopted.



Summary of changes		
Page No.	Heading	Comments
All	Various	<p>Legislative Framework has been updated to reflect the National Principles for a Child Safe Organisation</p> <p>Term harm has been updated to include harm and at risk of harm throughout</p> <p>Updating employee and volunteer recruitment processes to include the processes to be included</p> <p>Including information on how council encourages children and young people so that they can provide feedback and or make a complaint</p>
Page 6	Other references	Internal policy and procedure titles have been changed to reflect updated titles.
Changes during or after GPC Meeting for Council Meeting [date]		

Supporting Information

## Attachments

1. [Children and Vulnerable Persons Policy - Revised Version for GPC 6 July 2022](#) .....122

# Children and Vulnerable Persons Safe Environment Policy



Record number	<del>D22/927</del> D22/37042
Responsible Manager	Manager Organisational Development
Other key internal stakeholders	Director Community and Cultural Development Director Organisational Services & Excellence Director Assets and Environment Manager Library Services Arts and Culture Manager Community Safety Manager Recreation and Leisure Services Manager Community Development and Engagement
Last reviewed	<del>16 February 2022</del> May 2022
Adoption reference	<del>Governance and Policy Committee</del>
Resolution number	<del>155</del>
Previous review dates	16/02/22, 19/06/19, 8/03/2016, 20/11/13, 21/03/12, 18/01/11, 19/01/10, 10/10/06
Legal requirement	The Children and Young People (Safety) Act 2017 (SA) requires Councils to have policies and procedures in place. The Child Safety (Prohibited Persons) Act 2016 (SA) requires that Working with Children Checks are undertaken for people employed in prescribed positions
Due date next review	2025

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.

## 1. PURPOSE

Children, young people and other vulnerable people have a right to be safe and protected from harm and risk of harm at all times, including when accessing services in the community. The purpose of this policy is to state Council's commitment to creating and maintaining a safe environment that promotes and enhances the safety and welfare of children, young and other vulnerable people in the community who access our services or participate in programs developed by or on behalf of Council.

This policy will govern how systems and processes are implemented to minimise the risk of harm resulting from the delivery of Council services and programs including employment screening for prescribed positions. It will also assist in the reporting of suspected harm and risk of harm against children, young and other vulnerable people. The policy also refers to guidance on sharing information with non-government and government agencies where there is a reasonable suspicion of harm.

This policy applies to Council Elected Members, employees, volunteers, contractors, consultants and any others involved in the delivery of Council services and programs to children and other vulnerable people.

## 2. POLICY

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

### 2.1 Principles

Council regards the interests of children, young and vulnerable people in our community as paramount and acknowledges that harm and risk of harm to children and young and vulnerable people must not be tolerated or ignored. While some factors are outside the control of Council, it is acknowledged that Council has a role to play in fostering a safe local environment and contributing to a whole of community effort towards the protection of children, young and vulnerable people from harm.

Elected Members, employees, volunteers, contractors and consultants may all be involved in the delivery of services and programs from time to time and/or on an ongoing basis and will be required to comply with all Council policies, local procedures, Employee Conduct Policy and the Code of Conduct for Council Members.

Fostering the safety of children, young and other vulnerable people is integral to the delivery of services and programs. Children, young and vulnerable people:

- a. Need to know they have the right to be safe from harm at all times
- b. Are entitled to basic human rights regardless of special needs, cultural or socioeconomic factors
- c. Are deserving of respect, care and protection
- d. Are entitled to the support of a responsible person if they experience or are at risk of harm or if they feel unsafe.

Council commits to:

- a. Encouraging the reporting of any incident of harm, risk of harm or discriminatory behaviour towards young and/or vulnerable persons to the relevant authority
- b. Maintaining a rigorous employee and volunteer recruitment and/or screening/selection process, that will include:
  - i. developing clear positions descriptions with a clear commitment to child and vulnerable persons safety and wellbeing
  - ii. requirement for valid working with children checks (unless a legal exemption applies)
  - iii. screening processes, including referee and qualifications checks
  - iv. on-the-job observation and probationary periods
- c. Monitoring and ensuring the renewal of screening for employees and volunteers in prescribed positions in accordance with the Relevant History Assessment Procedure
- d. Ensuring that contractors, sub-contractors and agents who will be working in a prescribed position have the Relevant History Assessment before they are engaged to undertake work for Council
- e. Implementing an ongoing training and support program for Elected Members, employees, volunteers and all those involved in the delivery of services and programs to ensure they are able to fulfil their duty of care
- f. Establishing supportive and responsive procedures for fulfilling mandatory reporting obligations and dealing with complaints and issues effectively as they arise through:
  - i. Clearly communicating (using age and developmentally appropriate language) how they (or their carers) can report any concerns or provide feedback
  - ii. Use of surveys or questionnaires to invite formal or informal feedback from children and young people about their experiences
- g. Operating in a spirit of cooperation and consultation with other relevant agencies in matters concerning protection of children, young and vulnerable people from harm
- h. Developing, monitoring, evaluating and reviewing risk management strategies to minimise harm to children, young and vulnerable people
- i. Developing and maintaining internal procedures and guidelines that underpin the requirements of the Children and Young People (Safety) Act 2017 and the Children and Young People (Safety) Regulations 2017 to ensure compliance with this policy
- j. Establishing and maintaining local procedures and developing additional strategies to minimise and control risks that directly impact on the delivery of specific programs and services for children, young and other vulnerable people
- k. Undertaking Business Unit, Centre and/or individual program risk assessments to assess the provision of a safe environment
- l. Implementing the Local Government of South Australia's Information Sharing Guidelines, including providing the relevant training and development.

Commented [HJ1]: Added

Commented [HJ2]: Added

This policy will be communicated to children, vulnerable persons and their parents or caregivers through:

- a. publication on our website
- b. posters displayed with relevant information
- c. Program flyers and promotional materials

Commented [HJ3]: Added

### 3. DEFINITIONS

For the purposes of this policy the following definitions apply:

#### Children (Child)

Refers to a person who is under 18 years of age.

#### Child Safe Officer

A position within Council who is responsible for:

Promoting child safe and vulnerable person awareness within council

Ensuring that council undertakes correct screening of all employees, volunteers, contractors or consultants in accordance to the current legislation

Ensuring that Safe Environments training is provided for all prescribed positions upon appointment and that refresher training is provided every three years

Distributing and promoting Council's child safe and vulnerable persons policies and procedures

Commented [HJ4]: Added

#### Department for Human Services Screening Unit

Is authorised under different Acts and Regulations to conduct Working with Children Checks; Disability Services Employment Screening; Aged Care Sector Employment Screening; Vulnerable Persons Related Employment Screening and General Employment Probity Screening.

#### Harm

Refers to all aspects of harm, that is, neglect, physical, psychological, emotional, financial and sexual.

#### Mandatory Reporting Obligation

Any person providing services to children (employee, volunteer, contractor or consultant) must report any suspicion of harm of a child to the Department for Child Protection 24-hour Child Abuse Report Line (13 14 78) for serious concerns or online in appropriate circumstances.

#### Prescribed Position

A prescribed position means:

A position in which it is reasonably foreseeable that a person works, or is likely to work, with children in the ordinary course of her or his duties.

A position in which a person is employed to provide preschool, primary or secondary education to a child (whether or not the person is a registered teacher).

#### Relevant History Assessments

Is the process of obtaining information about potential Elected Members, employees, volunteers, contractors or consultants, where it is deemed relevant to working in a child, youth or vulnerable person related area. The information may include previous employment history, a Working with Children Check under the Child Safety (Prohibited Persons) Act 2016, relevant experience, qualifications, professional registration, criminal history information, reference checks and work history reports.

**Training**

Is the process of providing Council Elected Members, employees, volunteers, contractors, consultants and any others involved in the delivery of Council services and programs to children, young and other vulnerable people with the skills to understand their mandatory reporting requirements

Commented [HJ5]: Added

**Vulnerable People**

Refers to those who may be at risk of harm or exploitation due to their dependency on others or experiences of disadvantage, and could include people with a disability, the frail aged, people from culturally and linguistically diverse backgrounds, refugees and those living in poverty.

**Young People**

Aged between 18 and 25 years

Commented [HJ6]: Deleted

#### 4. LEGISLATIVE FRAMEWORK

The following legislation applies to this policy:

[Children and Young People \(Safety\) Act 2017](#)

Section 30 of this Act establishes mandatory reporting obligations for those individuals in a prescribed position who suspect that a child is being harmed or at risk of harm.

Under Sections 31(1) and 31(4) of this Act, certain persons are obligated to notify the Department for Child Protection (SA) (through the Child Abuse Report Line (CARL) either by telephone or online) if they suspect, on reasonable grounds, that a child has been or is being harmed, or is at risk of harm and the suspicion is formed in the course of their work (paid or voluntary) or in carrying out official duties.

Failure to comply with mandatory reporting obligations is serious and gives rise to an offence under the Act, whereby a maximum penalty of \$10,000 applies.

Section 114 requires implementation and maintenance of policies and procedures designed to ensure that safe environments for children and young people are established and maintained. Section 115 requires that policies and procedures prepared or adopted must be reviewed at least once in every five-years. Failure to comply with Sections 114 or 115 gives rise to an offence under the Act, whereby a maximum penalty of \$10,000 applies.

[Children and Young People \(Safety\) Regulations 2017](#)

These Regulations underpin the requirements under the *Children and Young People (Safety) Act 2017*. The Regulations are amended from time to time and must be read in conjunction with the *Children and Young People (Safety) Act 2017*.

[Child Safety \(Prohibited Persons\) Act 2016](#)

Section 17 requires that an employer must not employ a person in a prescribed position unless a Working with Children Check has been conducted in relation to the person within the preceding five years and the person is not prohibited from working with children.

Section 18 requires that Working with Children Checks must be conducted at least every five

years. Failure to comply with Sections 17 or 18 may result in a maximum penalty of \$50,000.

Section 19 requires that the central assessment unit must be notified if they become aware of any assessable information in relation to a person employed in a prescribed position.

Failure to comply with Section 19 may result in a maximum penalty of \$25,000.

#### Child Safety (Prohibited Persons) Regulations 2019

These Regulations underpin the Child Safety (Prohibited Persons) Act 2016 and define prescribed positions and child related work. The regulation is amended from time to time and must be read in conjunction with the Child Safety (Prohibited Persons) Act 2016.

#### Disability Services Act 1993

This Act requires that disability service providers funded under the Act must ensure that before a person is appointed or engaged in a prescribed position, he or she undergoes an assessment of his or her relevant history by an authorised screening unit. People seeking to work or volunteer with people with disability in South Australia are required to undergo disability services employment screening.

#### Aged Care Act 1997 (Cth)

This Act and associated Principles requires that organisations funded by the Commonwealth to provide aged care services should be satisfied that a person providing these services has not committed a precluding offence. Precluding offences are defined as: a conviction for murder or sexual assault or a conviction of, and sentence to imprisonment for, any form of assault. Any person with a conviction for a precluding offence must not be employed, contracted, hired, retained or accepted as an unsupervised volunteer in an aged care service subsidised by the Commonwealth.

#### Criminal Law Consolidation Act 1935

Sexual offences are set out in the Criminal Law Consolidation Act and include Rape (section 48), unlawful sexual intercourse (section 49), persistent sexual abuse of a child (section 50), sexual exploitation of a person with a cognitive impairment (section 51), indecent assault (section 56)

Reference to other Acts:

The Sex Discrimination Act 1984 (Cth), Disability Discrimination Act 1992 (Cth), Racial Discrimination Act 1975 (Cth), and Equal Opportunity Act 1984 make sexual harassment and discrimination on the grounds of sex, marital status, sexuality, pregnancy, race, impairment, and age unlawful in the provision of goods and services.

Within the terms of the above legislation, Council is responsible for its own conduct as well as the conduct of its employees, including volunteers.

## 4.1 Other references

Council documents including:

- a. Employee Conduct Policy
- b. Fair Treatment Policy and Procedure
- c. Relevant History Screening Procedure
- d. Fees and Charges Register
- e. Risk Management Policy and Departmental Risk Register Procedure

- f. Volunteer Handbook

External documents including:

- a. [Code of Conduct for Council Members](#)
- b. [Disability services \(Assessment of Relevant History Regulations 2014 \(Regulation 9\)\)](#)
- c. [Information Sharing Guidelines for Promoting Safety and Wellbeing \(Government of South Australia\)](#)
- d. [National Principles for Child Safe Organisations](#)
- e. [Safe environments for children and young people – Mandatory reporting information booklet](#)

Commented [HJ7]: Added

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

## 5. STRATEGIC PLAN/POLICY

### 5.1 Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:

Objective	Comments
Leadership	
<i>Planning considers current and future community needs</i>	Our culture contributes to the safety and wellbeing of everyone.

### 5.2 Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of customer care, learning & growth, future capability and sustainable operations. The key theme most relevant to this policy is sustainable operations, in ensuring that our culture contributes to the safety and wellbeing of everyone.

## 6. 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.



## CODE OF PRACTICE FOR MEETING PROCEDURES AND LIVE- STREAMING OPTIONS

Responsible Manager: Manager Governance and Policy

### Notice 1 Changes to Code of Practice

In March 2020, pursuant to section 87 of the *South Australian Public Health Act 2011* and section 23 of the *Emergency Management Act 2004* a public health emergency and major emergency was declared in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On this basis the operation of the specified provisions in the *Local Government Act 1999* (the 'Act') and *Local Government (Procedures at Meetings) Regulations 2013* (the 'Regulations') were varied or suspended the by way of the '[Electronic Participation in Council Meetings Notice \(No 1\) 2020](#)' published in the SA Government Gazette on 31 March 2020. Council at its meeting on 14 April 2020, considered a report relating to Electronic Participation in Council Meetings resulting from the Notice from the Minister.

On Tuesday 24 May 2022, the Emergency Declaration ended which means elements of the Code that relate to Electronic Participation in Council Meetings Notice (No.1) 2020 are only relevant for 28 days (or until 21 June 2022) which is the cessation of all relevant declarations for COVID-19 public health emergency.

This report addresses removing the inclusions in the Code of Practice for Meeting Procedures as part of the Notice 1.

### Options for Live-Streaming of Council Meetings post Emergency Declaration Requirements

Council at its meeting on 28 July 2020, resolved:

*That Council defer consideration of publishing of Council meetings until notice number 1 no longer has effect*

A copy of the report is provided as Attachment 2.

As Notice 1 is no longer in effect as from 21 June 2022, Council is now in a position to consider the publishing of Council meetings (i.e. continuation of Live-streaming).

To assist the Committee and Council on its decision regarding Live-streaming, a summary table is provided below of approximately that last 12 months online viewing statistics. Where viewers are 10 or above, major decisions have been listed that were considered at that meeting which may have affected viewing numbers.

Meeting Date – Council	Viewers	Major Decisions
24 May 2022	14	<input checked="" type="checkbox"/> Community Engagement Outcomes Report - Potential Future Development and Naming of the Council Owned Land located at 1335A North East Road, Tea Tree Gully <input checked="" type="checkbox"/> Harpers Field Community Building & Sporting Club Redevelopment Masterplan - Community Engagement Outcomes
17 May 2022 (Special)	NA	Data is not available from the system
10 May 2022	17	<input checked="" type="checkbox"/> Notice of Motion - Investigating the Future Upgrade of the Precinct incorporating the Golden Grove Recreation and Arts Centre, Golden Grove Hockey Pitch surround, associated car park and pedestrian connections <input checked="" type="checkbox"/> Questions without Notice - Investigation Costs relating to Mayor Kevin Knight for Previous 3 Years
26 April 2022	12	<input checked="" type="checkbox"/> Notice of Motion - Discretionary Rebate for Retirement Villages and Independent Living Units <input checked="" type="checkbox"/> Draft Annual Business Plan for 2022-2023 for Community Engagement

12 April 2022	10	<input checked="" type="checkbox"/> Outcomes from Community Engagement for the Development of Two (2) New Toilets on the River Torrens Linear Park
22 March 2022	21	<input checked="" type="checkbox"/> Golden Grove Code Amendment – Proposal for developer-led code Amendment <input checked="" type="checkbox"/> Harpers Field Redevelopment for Community Consultation
8 March 2022	17	
22 February 2022	22	<input checked="" type="checkbox"/> Deputation regarding St Agnes Fuel and Recycling Development Proposal
8 February 2022	14	<input checked="" type="checkbox"/> Outcome of community engagement for the proposed development of a new playground on Tarni Reserve, Fairview Park
3 February 2022	NA	Data is not available from the system
1 February 2022	NA	Data is not available from the system
18 January 2022	NA	Data is not available from the system
14 December 2021	11	<input checked="" type="checkbox"/> Lease over Portion of Reserve – 68 Valley Road, Hope Valley – Proposed Telecommunications Tower – Community Engagement Outcomes <input checked="" type="checkbox"/>
23 November 2021	10	<input checked="" type="checkbox"/> Notice of Motion – Rescission Motion – 1335A North East Road Property Acquisition <input checked="" type="checkbox"/> Motion without Notice – Recycling Depot – 1272 North East Road, Tea Tree Gully <input checked="" type="checkbox"/> Modbury Jets Amateur Football Club, Ladywood Reserve – Proposed facility upgrade
16 November 2021 (Special)	7	-
9 November 2021	8	-
26 October 2021	16	<input checked="" type="checkbox"/> Modbury Jets Amateur Football Club - Ladywood Reserve - Proposed Facility Upgrade
12 October 2021	27	<input checked="" type="checkbox"/> Maxlay Reserve Development Options - Outcome of Concept 3 Investigations <input checked="" type="checkbox"/> Proposal to Initiate a Code Amendment to Rezone the Rural Living Zone at Golden Grove to a Neighbourhood-type Zone
28 September 2021	172	<input checked="" type="checkbox"/> Recycling Centre 1272 North East Road, Tea Tree Gully (including Petition) <input checked="" type="checkbox"/> Code of Conduct – Complaint against Cr Jones

14 September 2021	23	☒ Stage 1 Community Engagement Outcomes Report – Potential sale of Portion Mowbray Reserve
24 August 2021	24	☒ Elected Member Absence – Three Consecutive Council Meetings
10 August 2021	11	Meeting was held via electronic means
27 July 2021	4	Meeting was held via electronic means
13 July 2021	20	☒ Hargrave Reserve – Removal of Cricket Pitch – Outcomes of Community Engagement ☒ Modbury Jets Amateur Football Club, Ladywood Reserve - Installation of Inclusive Change Rooms, Toilet Facility and Additional Car Parking ☒ Council's Response to SA Water's Sustainable Sewer Transition Plan
29 June 2021 (Special)	26	☒ Budget Adoption and Rates Declaration for Year Ending 30 June 2022 including the Adoption of the Community Wastewater Management System (CWMS) Transition Update 2021-2022
22 June 2021	28	☒ External Grant Funding Offers and Opportunities
8 June 2021	24	☒ Tea Tree Gully Gymsports - Request for 10 year lease - Outcomes of Community Engagement ☒ Prudential Report - Community Wastewater Management System
25 May 2021	42	☒ Open Space and Places for People Grant Funding - Golden Fields Reserve, Golden Grove - Adventure Playspace ☒ Notice of Motion - Deputy Mayoral Robe and Medallion ☒ Review of Satellite Horticultural Sheds
18 May 2021 (Special)	16	☒ Draft Annual Business Plan for 2021-22 for Community Engagement
11 May 2021	7	-
4 May 2021 (Special)	8	-

Note: These numbers include staff listening online and Governance Staff logging on to ensure streaming is working correctly.

Financial Implications

Approximately \$1,000 annually for the Vimeo Licence.

RECOMMENDATION

*Recommendations to be considered separately*

1. Adoption of Code of Practice for Meeting Procedures

That the Governance and Policy Committee recommends to Council:

**That the “Code of Practice for Meeting Procedures and Live-Streaming Options” as reviewed by the Governance and Policy Committee on 25 July 2022 be adopted.**

2. Options for Live-Streaming of Council Meetings2A. Option 1 –Live-Streaming of Council Meetings

That Council live-streams Council Meetings and the Code of Practice for Meeting Procedures be updated accordingly to reflect this change.

OR

2B. Option 1 – To Not Live-Stream of Council Meetings

That Council does not live-streams Council Meetings effective from the 12 July 2022 Council Meeting.

Summary of changes		
Page No.	Heading	Comments
The Policy has been reviewed in its entirety to remove references to Notice 1 of the COVID 19 Emergency Declarations.		
8	Public participation / speaking at a meeting	During an election period, restricting a candidate should not only be limited to Public Forum but also Deputations.
23	Visual or Audio Recordings	Discussion Point: To consider live-streaming of Council Meetings.  Comment: The use of Live streaming of meetings during the COVID -19 emergency has lead to a number of options and solutions being explored with overall increased reliability and performance.

[illegible]

Supporting Information	

## Attachments

1. [Code of Practice for Meeting Procedures](#) - Reviewed version for GPC 6 July 2022.135  
2. [Council - Report - Options for Publishing Council Meetings](#) - 28 July 2020.....168

# Code of Practice for Meeting Procedures



Record number	D21/86906
Responsible Manager	Manager Governance & Policy
Other key internal stakeholders	NA
Last reviewed	
Adoption reference	
Resolution number	
Previous review dates	18/01/22, 23/02/21, 14/4/20, 26/02/19, 27/11/18, 28/08/18, 8/05/18, 12/09/17, 9/08/16, 25/11/14, 11/02/14, 11/12/12, 11/10/11, 10/05/11, 08/02/11, 23/11/10, 08/06/10, 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
Legal requirement	<p>To be reviewed within 12 months after the conclusion of each Council election.</p> <p>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.</p> <p>Variations made by Council to the Regulations must be reviewed once every financial year.</p>
Due date next review	2023

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## 1. PURPOSE

The purpose of this Code is to establish a consistent and transparent approach and provide clear expectations for Elected Members, Council employees and members of the public regarding Council and Committee meetings.

This Code only applies to all ordinary and special meetings of Council and section 41 Committee meetings at the City of Tea Tree Gully. Council Assessment Panel (CAP) is governed by the *Planning, Development and Infrastructure Act 2016* and therefore has its own meeting procedures.

## 2. CODE

### 2.1 Introduction

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

1. Local Government Act 1999 (Chapter 6)
2. Local Government (Procedure at Meetings) Regulations 2013
3. Code of Practice for Meeting Procedures (this Code)
4. Code of Practice – Access to Council and Committee Meetings and Documents – this determines access to meetings and documents
5. Committee Structure - Terms of Reference and Membership

The Code complements and is applied in conjunction with the prescribed procedures set out in the *Local Government Act 1999* and the *Local Government (Procedures at Meetings) Regulations 2013* except where Council has, in accordance with Regulation 6, chosen to vary meeting procedures..

### 2.2 ~~2.2—Electronic Participation in Council Meetings: Public Health Emergency (Notice No 1)~~

~~On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.~~

~~On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 22 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.~~

~~On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 202B of the *Local Government Act 1999* (Notice No 1) varying or suspending the operation of the specified provisions of the *Local Government Act 1999* as set out in Schedule 1 to Notice No 1 which commenced operation on 31 March 2020.~~

~~For the period Notice No 1 has effect (as provided for in Notice No 1), this Code of Practice is altered as set out below and those alterations have effect notwithstanding any other provision in this Code of Practice to the contrary.~~

**2.2.1—Code of Practice—electronic meetings**

The Council is not required to adopt any provision in a code of practice that would prevent or inhibit members from participating in Council meetings or Committee meetings by electronic means.

Council members may meet by electronic means to alter the code of practice of the Council, or substitute a new code of practice of the Council, even if the existing code of practice prevents or inhibits the Council members from meeting by electronic means.

**2.2.2—Suspension of Other Inconsistent Provisions**

To the extent that any other discretionary provision of this Code of Practice could be read as being inconsistent or incompatible with the ability of the Council to hold electronic meetings, the provision is suspended while any member is participating in the meeting by electronic means and while these provisions are in effect.

In circumstances where a provision is suspended under this paragraph, the Presiding Member may give directions to a member of the Council (or Committee) in respect of an alternative method of compliance with the suspended provision.

Any member who disagrees with a direction of the Presiding Member under this paragraph may move a motion that the direction not be adhered to. Such a motion must be moved immediately following the issuance of the direction. In the event such a motion is successful, the meeting may give directions to a member, by resolution.

**Guiding Principles (Regulation 4)****Legislation**

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:

- a. Procedures should be fair and contribute to open, transparent and informed decision-making
- b. Procedures should encourage appropriate community participation in the affairs of the council
- c. Procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting
- d. Procedures should be sufficiently certain to give the community and decision-makers confidence in the deliberations undertaken at the meeting.

**2.4 Meetings to be Held in Public Except in Special Circumstances**

A Council meeting will be taken to be conducted in a place open to the public even if 1 or more Council members participate in the meeting by electronic means provided that:

- (a) the CEO (or a person nominated in writing by the CEO) makes available to the public a live stream of the meeting on a website determined by the CEO and ensures that members of the public can hear the discussion between all Council Members present at the meeting via the live stream; or

~~(b) if the CEO (or a person nominated in writing by the CEO) has taken reasonable steps to make available a live stream of the meeting but is unable to make available a live stream of the meeting, the CEO (or a person nominated in writing by the CEO) makes available to the public a recording of the meeting as soon as practicable after the meeting on a website determined by the CEO and ensures that members of the public can hear the discussion between all Council Members present at the meeting via the recording.~~

~~If the CEO (or a person nominated in writing by the CEO) has taken reasonable steps but is unable to make available a live stream of the meeting, or make available a recording of the meeting as soon as practicable after the meeting (on a website determined by the CEO), the CEO (or a person nominated in writing by the CEO) must publish on a website determined by the CEO the steps taken to comply and the requirement regarding live streaming and recoding is suspended.~~

~~The Council or Committee must disconnect any live stream or recording of a meeting for the period that the meeting is closed to the public pursuant to an order made under section 90(2) of the Act.~~

~~It is an offence for person who, knowing that an order is in force under section 90(2), to connect or fail to disconnect to a meeting of the Council or Committee by electronic means.~~

## 2.53 Agenda and Order of Business

### 2.5.1 Procedures of Agenda Items at a Meeting

#### Electronic Participation in Council Meetings: Public Health Emergency (Notice No 1)

~~1. **Attendance at Council Meetings:** Members of the Council may participate in a meeting of the Council by electronic means.~~

~~A member of the Council participating in a Council meeting by electronic means is taken to be present at the meeting provided that the member:~~

- ~~(a) can hear all other members present at the meeting;~~
- ~~(b) can be heard by all other members present at the meeting; and~~
- ~~(c) can be heard by the person recording the minutes of the meeting.~~

~~2. **Form of Participation by Electronic Means**~~

~~Where:~~

- ~~1. a Council member is to participate in a Council meeting by electronic means; and~~
- ~~2. the electronic means has the functionality to allow the Council member to participate in the meeting by being heard but not seen or by being both seen and heard; and~~
- ~~3. the electronic means of the Council has the functionality to allow the council member to be heard but not seen or to be both seen and heard, the member must participate by being both seen and heard.~~

~~3. **Quorum:** A member of the Council participating in a Council meeting by electronic means is taken to be present at the meeting provided that the member:~~

- ~~(a) can hear all other members present at the meeting;~~
- ~~(a) can be heard by all other members present at the meeting; and~~

~~(b) can be heard by the person recording the minutes of the meeting.~~

~~A quorum is taken to be present even if 1 or more Council members constituting the quorum is present by electronic means.~~

**4. — Leave of the meeting:** For the purpose of Notice No 1, a vote on whether **leave of the meeting** is granted may be conducted by:

~~(a) a show of hands; or~~

~~(b) where a member is participating in a meeting by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative.~~

~~A division may be called in relation to the vote.~~

**5. — Adjourned Meetings:** If a meeting is adjourned to another day, the CEO must:

~~(a) give notice of the adjourned meeting to each member of the Council setting out the date, time and place of the meeting;~~

~~(a) give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be published on a website determined by the CEO.~~

## **2.53.21 Order of Business**

The order of business to be considered at an ordinary or special Council and Committee meetings has been determined as follows:

- a. Opening Prayer (Council only) and Welcome
- b. Acknowledgement of Country Statement
- c. Attendance record (Present, Apologies, Leave of absence, Officers in attendance, Public in attendance, Media in attendance)
- d. Confirmation of Minutes of the previous meeting *(this will not occur at a special meeting)*
- e. Public forum
- f. Deputations
- g. Presentations
- h. Petitions *(this will not occur at a special meeting)*
- i. Declaration of conflicts of interest
- j. Adjourned business *(this will not occur at a special meeting)*
- k. Motions lying on the table *(this will not occur at a special meeting)*
- l. Committee reports (for section 41 Committee recommendations to Council) *(this will not occur at a special meeting)*
- m. Management reports *(referred to as matters for discussion at a special meeting)*
- n. Notices of Motion
- o. Motions without Notice *(this will not occur at a special meeting)*
- p. Questions on Notice
- q. Questions without Notice *(this will not occur at a special meeting)*
- r. Council Delegates and Activities Report (including Mayor reports) *(this will not occur at a special meeting)*
- s. Information reports *(this will not occur at a special meeting)*
- t. Status report on resolutions *(this will not occur at a special meeting)*
- u. Other business *(this will not occur at a special meeting)*

- v. Confidential items
- w. Date of next ordinary meeting (*this will not occur at a special meeting*)
- x. Closure

For a special meeting, each agenda item listed above must relate to the agenda for the special meeting as specified in the request to the CEO to call a special meeting.

The order of agenda items may be varied by Leave of the Meeting, or by resolution of the Council or Committee, in consideration of the needs of the public, employees, consultants, individual members or any person making a deputation, presentation or participating in the public forum.

### 2.53.32 Welcome

All present will stand as the Presiding Member takes their position in the Chambers. The Presiding Member will welcome everyone in attendance. (Note: The requirement to stand only applies to Council meetings.)

### 2.53.43 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."*

### 2.53.54 Acknowledgement of Country Statement

An Acknowledgement of Country is a way of showing respect and an awareness of Aboriginal and Torres Strait Islander owners of the land on which a meeting or event is being held, and of recognising the continuing connection of Aboriginal and Torres Strait Islander peoples to their Country.

At the City of Tea Tree Gully an Acknowledgement of Country Statement may be read by the Presiding Member, or at their discretion another Elected Member, at each Council and Committee meeting (where members of the public are present). Council recognises the need for flexibility in the content of the statement to ensure it demonstrates respect for the traditional custodians. The following statements are provided as examples that can be read.

*"The City of Tea Tree Gully recognises this City's considerable natural and cultural heritage, including thousands of years of Traditional Ownership by the Kurna 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".*

*"The City of Tea Tree Gully recognises that we are meeting on the traditional lands of the Kurna people of the Adelaide Plains. We recognise and respect their cultural heritage, beliefs and relationship with the land of their Ancestors. We acknowledge the Kurna people living today as the custodians and caretakers of their land and pay our respect to elders both past and present"*

*"The City of Tea Tree Gully recognises that we are meeting on the traditional lands of the Kaurna people of the Adelaide Plains. We recognise and respect their cultural heritage, beliefs and relationship with the land of their Ancestors."*

*"We would like to Acknowledge that the land we meet on today is the traditional land for the Kaurna people and that we respect their spiritual relationship with their Country. We also acknowledge the Kaurna people as the traditional custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kaurna people today." (Statement of Acknowledgement from Reconciliation SA)*

#### 2.53.6-5 Evacuation Protocols

In the event that there is a significant number of public present, the Presiding Member or CEO (or delegate) may provide guidance on evacuation protocols at the start of the meeting. As this is undertaken for information purposes only, no record will be made in the Minutes in relation to this matter.

#### 2.53.7-6 Brief Statement to Public Gallery (if members of public are present)

Where a number of members of the public are present, the Presiding Member may advise that while the public are encouraged and are welcome to attend meetings, they are doing so to listen to the proceedings in an observer role only. There are designated sections of the meeting (eg. Public Forum and Deputations) where members of the public can directly interact in the meeting.

As this is undertaken for information purposes only, no record will be made in the Minutes in relation to this matter.

#### 2.53.8 Attendance Record

##### 2.53.8.1 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 they sit around the Council Chamber or meeting room. First name initials with surnames in full will be used.

##### 2.53.8.2 Apologies

A record is taken of those Elected Members who have previously advised that they would not be present at the meeting. Elected Members that are absent from meetings and have not previously advised that they would not be present, are not recorded in the Minutes.

##### 2.53.8.3 Leave of Absence (Council only)

A motion may be sought by the Presiding Member for Council to grant any requested leave of absence by Elected Members.

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

- a. If an Elected Member knows in advance that they will be away for Council meeting(s) they will advise the CEO in writing (e.g. by email)

- b. The Elected Member's name will be listed as an apology under the Agenda item "Leave of Absence" and include the relevant period
- c. The CEO 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
- d. At each meeting, Council will formally consider and vote on leave of absences for those Elected Members who have requested it.

#### 2.53.87.4 Officers in Attendance, Public Gallery and Media Present

A record in the minutes is to be taken of those employees present (physically or electronically) at the meeting, their first name initial and full last name and position title.

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

#### 2.3.9-8 Confirmation of Minutes of the Previous Meeting

##### Legislation - Regulation 8

- (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.
- (2) No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.
- (3) On the confirmation of the minutes, the presiding member will –
  - (a) Initial each page of the minutes, which pages are to be consecutively numbered; and
  - (b) Place his or her signature and the date of confirmation at the foot of the last page of the minutes.

**Notice No 1:** For the period Notice No 1 has effect, on confirmation of the minutes the Presiding Member may initial or sign the minutes in hardcopy or electronically.

The minutes of the proceedings of a meeting must include in relation to each member present at the meeting the method of attendance by the person.

##### Example:

The following are examples of methods of attendance:

- (a) – physical attendance;
- (a) – by an audio-visual link;
- (b) – by an audio link;
- (c) – by telephone.



### 2.53.10-9 Public participation / speaking at a meeting

Similar to other levels of government, for the majority of the meeting members of the public are not able to participate in the meeting and are there to listen to the proceedings in an observer role only. However, as part of Council's desire to be open, transparent and accessible to its community, provision has been made at each meeting for a Public Forum session (specific to each council) and Deputations (provided for in legislation). This allows residents, ratepayers or guests of the City to speak to the meeting on topics of Council business, which should relate to policy, strategic type matters or items that are currently before the Council. Operational matters should be referred to Council's Customer Service during normal business hours.

Deputations are a more formal way of addressing a meeting than Public Forum (details of the Deputation are published on the meeting Agenda if known prior to the meeting). For either speaking method, speakers are required to register their request to speak in writing prior to the commencement of the meeting (preferably by [online form](#)) with the following information:

- a. The speakers name
- b. The speakers address
- c. Contact details
- d. Subject matter that the speaker wishes to address at the meeting
- e. Representation method – ie. Public Forum or Deputation
- f. Preferred meeting date
- g. Proposed duration of deputation (restricted to a maximum of 10 minutes) *[Note: relevant to Deputations only]*

Priority will be given to those person(s) who have placed a request to speak prior to the day of the meeting. Persons who have requested to speak prior to 10am on the day of the meeting will be informed of the outcome of their request.

A person who has submitted a petition to Council (or a nominated representative) on a matter, may at the discretion of the Presiding Member, be requested to speak on behalf of the signatories, instead of all individuals speaking.

A person will 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 is part of a community engagement process, unless leave of the meeting is granted.

During an election period (as defined by *Local Government (Elections) Act 1999*), the Presiding Member may not allow a person to speak about a matter ~~during the Public Forum~~ where the subject matter is a matter which a candidate has made public statements about, or if the person speaking is a candidate in the local government elections.

Each person allowed to speak must address the Presiding Member and state their name, suburb and the subject upon which they wish to address the meeting. Any person speaking at the meeting must seek approval from the Presiding Member before giving handouts to Elected Members.

Protocols for speaking at a meeting include:

- a. The speaker must introduce themselves (name, suburb and subject)

- b. Speakers are required to speak at the meeting with respect; use appropriate language; comments must be truthful, fair and based on facts; not include allegations or make critical remarks about people or organisations.

The Presiding Member has the authority to terminate any public forum or deputation at any time where it fails to conform to these protocols or a reasonable request of the Presiding Member.

The meeting will not debate a matter raised from the Public Forum or Deputation, although Elected Members may ask questions for clarification 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 a brief description on the nature of the matter discussed.

### 2.53.109.1 Public Forum

The Public Forum session will be restricted to a maximum of 10 minutes in total and each person will be restricted to a maximum of 2 minutes (unless otherwise resolved by the meeting or Leave of the Meeting is granted). A list of speakers will be provided to the Presiding Member at the commencement of the meeting.

The Presiding Member has absolute discretion as to allow or refuse a person to continue speaking in the Public Forum.

Where there are more registered speakers than the allocated maximum of 10 minutes, the Presiding Member will have the right to limit the number of speakers, or may seek leave of the meeting to extend the time accordingly. Where multiple speakers have indicated they wish to speak on the same topic, the Presiding Member may request a ballot draw. The names drawn will indicate people who can speak in the Public Forum. The ballot draw will be coordinated by staff present at the meeting as nominated by the CEO.

**Notice No 1:** For the period Notice No 1 has effect, a person(s) wishing to speak in the Public Forum session at a meeting should make a request to the CEO prior to the meeting. A person(s) wishing to speak in the Public Forum session at a meeting may appear by electronic means.

The CEO will (with respect to a request that has not been refused), when informing the person(s) who requested the Public Forum session of the outcome of their request, indicate the method by which the person(s) are to appear at the meeting.

### 2.53.910.2 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.

**Notice No 1:** For the period Notice No 1 has effect, a person or persons wishing to appear as a deputation at a meeting must deliver a written request to the Council either by email ([customerservice@cttg.sa.gov.au](mailto:customerservice@cttg.sa.gov.au)), by post (571 Montague Road, Modbury) or via the [electronic form](#) on Council's website. A person(s) wishing to appear as a deputation at a meeting may appear by electronic means.

The CEO will (with respect to a request that has not been refused), when informing the person(s) who requested the deputation of the outcome of their request, indicate the method by which the person(s) are to appear at the meeting and the approved duration of the deputation.

A Deputation is to be restricted to a maximum of 10 minutes per Deputation (unless otherwise resolved by the meeting or Leave of the Meeting is granted).

Deputation requests should be submitted within the following timeframes:

- Deputation is related to matter of business on Agenda – by 10am the day of the meeting
- Deputation does not relate to a matter of business on Agenda – at least seven (7) days prior to the meeting (if approved, the deputation request will be published on the Agenda)

It is preferable that any deputation relating to a planned report should occur at the same meeting as the report that is presented to Council or Committee (where relevant).

Whether or not a deputation may be allowed or refused is to be determined on a case by case basis. In determining whether a deputation is allowed, the following considerations will be taken into account:

- a. The subject matter of the proposed deputation
- b. Whether the subject is within the jurisdiction of the Council
- c. Relevance to the Agenda of the meeting nominated
- d. The size and extent of the Agenda for the particular meeting

The Presiding Member must report the decision to refuse a deputation at the next meeting of the Council or Committee (if relevant).

Any person that requires the use of presentation aids (eg. PowerPoint presentation, DVD etc) must make the presentation available to Council prior to 2pm on the day of the meeting to enable testing. External USB drives will not be inserted into any Council computers ~~without prior approval from Council.~~

### 2.53.10~~1~~ Presentations

Employees, consultants, government agencies or other organisations that work with Council, may make presentations to a meeting on matters relating to the Council or Committee at the discretion

of the CEO or Presiding Member. A general limit of two presentations per Council meeting applies unless other priorities are identified.

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

**Notice No 1:** For the period Notice No 1 has effect, a person or persons wishing to make a presentation to Council at a meeting must make a request to the CEO prior to the meeting. A person or persons wishing to present at a meeting may appear by electronic means.

The CEO will (with respect to a request that has not been refused), when informing the person or persons who requested the presentation of the outcome of their request, indicate the method by which the person or persons are to appear at the meeting.

## 2.53.12-11 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 Committee meeting. A report containing a statement as to the nature of the petition, along with the number of signatures on each petition will be provided in the Agenda. The petitions will not be copied and circulated, however a copy will be available for Elected Members to inspect.

This report is provided for information purposes, and does not require a resolution. The Minutes will record that the Petition was received by Council.

**Notice No 1:** For the period Notice No 1 has effect, a petition must be addressed to the Council and delivered to the Council by means determined by the Chief Executive Officer. Petitions must be provided either in an electronic format and delivered by email ([customerservice@cttg.sa.gov.au](mailto:customerservice@cttg.sa.gov.au)) or provided in hardcopy by post (571 Montague Road, Modbury).

### 2.53.13-12 Declaration of Conflicts of Interest

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

The Minutes will record a reference to the Agenda item to which the interest relates. Details on the specific nature of the conflict of interest will be recorded in the Minutes in accordance with the Act as part of consideration of the Agenda item itself and will also record if the Member was present or not for the vote.

### 2.53.14-13 Adjourned Business

Any adjourned business will be listed on the next meeting Agenda as a reminder of their status. A copy of any adjourned business is to be included in the Agenda.

#### Legislation - Regulations 19

Regulation 19 –varied by Council

- (1) 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.
- (2) 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.
- (3) Business adjourned from a previous meeting must be dealt with before any new business at a subsequent meeting.
- (4) The provisions of this regulation may be varied at the discretion of the council pursuant to regulation 6.

Regulation 19(3) is varied to allow the Presiding Member, in determining order of business, to consider whether it is appropriate for business adjourned from a previous meeting to be dealt with before any new business.

### 2.53.15-14 Motions Lying on the Table

Any motions currently lying on the table will be listed on the next meeting Agenda as a reminder of their status. A copy of any motion lying on the table is to be included in the Agenda.

#### 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 officer must report on each question that lapses under subregulation (19) to council at the first ordinary meeting of the council after the general election.

### 2.53.16-15 Committee Reports (Council only)

Any Committee (or Sub Committee) recommendations or matters that need to be presented to Council will be presented for consideration at the next available meeting.

Presiding Members of Committees may present to Council on relevant matters in accordance with the Terms of Reference for that Committee.

### 2.53.17-16 Management Reports

Management Reports will be listed on the Agenda in accordance with the management structure of Council:

- a. Office of the Chief Executive Officer
- b. Assets and Environment
- c. Organisational Services and Excellence
- d. Community and Cultural Development

This listing will be varied as required to ensure consistent alignment with Council's management structure at any point in time.

### 2.53.18-17 Notice(s) of Motions

#### Legislation – Regulation 12(1) to (4) and (7)

- 12.
- (1) A member may bring forward any business in the form of a written notice of motion.
- (2) The notice of motion must be given to the chief executive officer at least 7 clear days before the date of the meeting at which the motion is to be moved.
- (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.
- (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.
- (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).

The Notice of Motion will be placed on the Agenda with the following information (to be considered in the prescribed form determined by Council):

- a. Subject of Notice of Motion
- b. Proposed Motion
- c. Background (must be provided prior to Notice of Motion deadline or will be considered not in the form required by Council and subsequently disallowed.)
- d. Name and Ward of Councillor that submitted the Notice of Motion
- e. CEO's comments (to be added after a Notice of Motion has been submitted by the deadline)

- Policy
  - Risk
  - Financial implications
- f. Attachments

Where regulation 12(7) is triggered, the Presiding Member will have the ability to refuse a motion as it is written. However, the Presiding Member may work with the Elected Member to amend the wording to bring it within the power of Council, or may refuse the Notice of Motion within the agenda.

As a matter of probity and governance best practice, the Presiding Member should not submit Notices of Motions at the meeting over which he or she presides.

### 2.53.19-18 Motion(s) without Notice

#### Legislation – Regulation 12(5) and (6)

12.

- (5) Subject to the Act and these regulations, a member may also bring forward any business by way of a motion without notice.
- (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.

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 urgent matters. Elected Members are encouraged where possible to provide a proposed written motion without notice to the Governance & Policy Department prior to Council's consideration to expedite minute taking.

### 2.53.1920 Question(s) on Notice

#### Legislation – Regulation 9 (1), (2) and (6)

- 9.
- (1) A member may ask a question on notice by giving the chief executive officer written notice of the question at least 7 clear days before the date of the meeting at which the question is to be asked.
  - (2) If notice of a question is given under Subregulation (1) –
    - (a) 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
    - (b) The question and the reply must be entered in the minutes of the relevant meeting.
  - (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.

The Question on Notice will be placed on the Agenda. Where possible, answers to the Questions on Notice will also be included in the Agenda.

Questions on Notice will not be debated in the meeting.

In accordance with regulation 9(6), the Presiding Member has the ability to refuse the answering of the Question on Notice. Where the answering the question is refused, no response will be provided either in the agenda or minutes, but there will be a record that the Presiding Member refused the answering of the question and on what basis.

A copy of the Question(s) on Notice and answers will be included in full as an attachment to the Council or Committee Minutes.

### 2.53.21-20 Question(s) without Notice

#### Legislation – Regulation 9(3) to (6)

- 9.
- (3) A member may ask a question without notice at a meeting.
  - (4) The presiding member may allow the reply to a question without notice to be given at the next meeting.
  - (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.
  - (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.

Unless otherwise determined by resolution, the Minutes will only record for transparency purposes the number of questions, the Elected Member that asked the question(s), and reference to the question topic.



## 2.53.22-21 Mayor and Council Delegates Reports (Council only)

### 2.53.22-21.1 Mayor's Report

The Mayor may elect to present a report of their activities since the previous Mayor's report. This is generally submitted on a monthly basis. The Mayor's report will only be included in full as an attachment to the Council Minutes where it has not been provided in the Agenda. This report is provided for information and does not require a resolution.

### 2.53.22-21.2 Other Council Delegate Reports

Where an Elected Member has attended a meeting and/or function:

- On behalf of Council as a nominated Council delegate (rather than as an elected member)
- On behalf of the Mayor

they are invited to submit a written report of the attendance. It is expected that these reports will include some specific information relating to recent meetings of the relevant body. If time permits, this will be included in the Agenda otherwise the report will be tabled at the meeting and provided as an Attachment to the Minutes. This report is provided for information and does not require a resolution.

### 2.53.23-22 Information Reports

The Minutes will record a list of those Information Reports that have been distributed to Elected Members in the Agenda. While these reports are provided for information and do not require a resolution, Elected Members may ask questions or move motions in relation to the Information Reports. The Presiding Member will make a determination whether to accept a motion in this regard, after taking into account the Guiding Principles.

### 2.53.24-23 Status Report on Previous Resolutions

A report that contains a summary of resolutions in progress or completed since the previous status report will be part of the Agenda for each Committee meeting and the first Council meeting of each month. This record will be used to ensure that Council and Committee decisions are enacted and the meeting is informed of any action(s) undertaken to date (with the exception of confidential items). This report is provided for information purposes and does not require a resolution. At the meeting, Council or Committee members will have the option of asking questions or querying outstanding items.

### 2.53.25-24 Other Business

Any late correspondence that needs to be circulated to Elected Members promptly, relating to Council business, may be recorded at this point in the meeting. This item is restricted to Council business considered to be of a minor housekeeping 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, however the Presiding Member has the discretion to allow for other matters to be raised. It is generally 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.

## 2.53.26-25 Confidential Items - Section 90(2) Local Government Act 1999

### Matters

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. Any recommendation to consider an item in confidence will be presented to Council or Committee in accordance with the requirements under the Act.

Council or Committee will consider the recommendation of the CEO and determine whether the matter will be considered in confidence. This section should be read in conjunction with Council's Code of Practice – Access to Council and Committee Meetings and Documents, which outlines how Council or Committee may apply the confidential provisions of the Act and restrict public access to the specific matter under consideration (and any associated documents).

## 2.53.27-26 Date of Next Meeting

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

## 2.53.28-27 Closure

The time of closure of the meeting will be recorded.

## 2.64 Meeting Practices

### 2.64.1 Motions

**Legislation – Regulation 12(7) to (11) –**  
Subregulation (10)(c) – varied by Council  
Subregulation (9), (10)(a) and (b) and (11) – not varied by Council

- 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 –
- to provide an explanation in regard to material part of his or her speech, but not so as to introduce any new matter; or
  - with leave of the meeting; or
  - 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 Regulation 12(10)(c) above as follows:

- A Member may only speak as the mover in reply (closing the debate) to a motion where another Elected Member has spoken against the motion (also refer to Amendments to Motions).

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.

As a matter of probity and governance best practice, it is preferable that a Presiding Member not move any Motions at the meeting over which they preside.

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

## 2.64.2 Formal Motions

Legislation – Regulation 12(12) to (18)
<p>12.</p> <p>(12) A member who has not spoken in the debate on a question may move a formal motion.</p> <p>(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).</p> <p>(14) If the formal motion is –</p> <ul style="list-style-type: none"> <li>(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</li> <li>(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</li> <li>(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</li> <li>(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</li> <li>(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.</li> </ul> <p>(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).</p> <p>(16) A formal motion does not constitute an amendment to a substantive motion.</p> <p>(17) If a formal motion is lost –</p> <ul style="list-style-type: none"> <li>(a) the meeting will be resumed at the point at which it was interrupted; and</li> <li>(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.</li> </ul>

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

### 2.64.3 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:

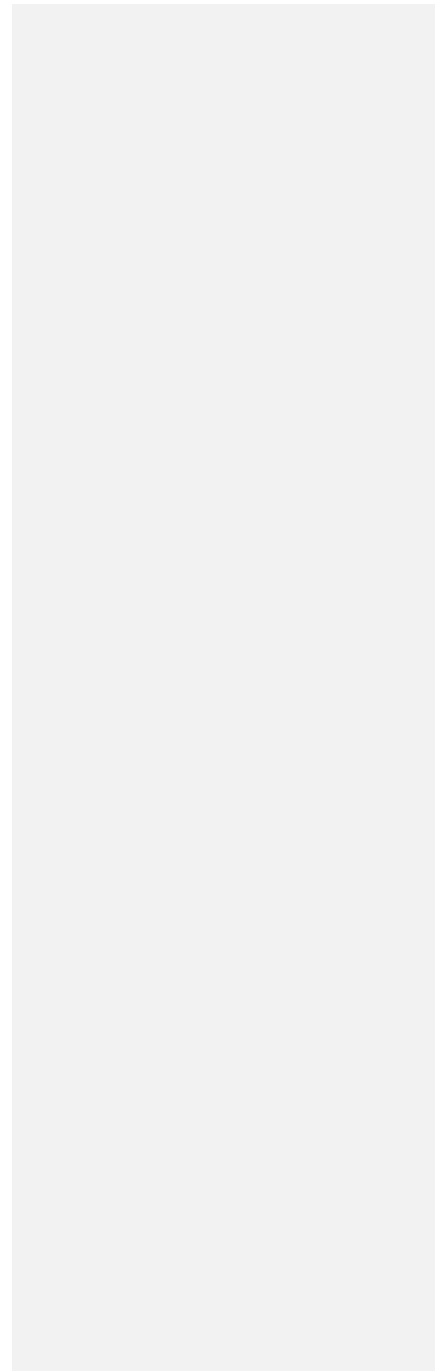
- ~~4.1.~~ Any Elected Member who has spoken to the original motion cannot speak to any amendments
- ~~5.2.~~ A second amendment can only be considered by the meeting once the first amendment has been resolved.
- ~~6.3.~~ Any Elected Member who has not spoken previously to the original motion or the first amendment may move, second or speak to a second amendment
- ~~7.4.~~ The mover of an amendment does not have right of reply prior to voting of the amendment.
- ~~8.5.~~ After any amendments have been resolved, other members who have not moved, seconded or spoken to the original motion or amendments should be invited to speak to the motion (as may be amended) before the debate concludes
- ~~9.6.~~ 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 foreshadowing of a motion will not be included in the Minutes.
- ~~10.7.~~ There is no closing of the debate prior to voting on an amendment.
- ~~11.8.~~ 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.

### 2.64.4 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.

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## 2.64.5 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 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 Committee then Council will consider the matter, or if the matter is being considered by a sub-committee then the parent Committee will consider the matter.

### Legislation – Regulation 6(1) to 6(4)

- (1) Subject to the requirements of the Act, if a provision of this Part is expressed to be capable of being varied at the discretion of the council pursuant to this regulation, then a council may, by a resolution supported by at least two-thirds of the members of the 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 the relevant matter or matters will apply in substitution for the relevant provision (and such a determination will have effect according to its terms).
- (2) A council should, at least once in every financial year, review the operation of a code of practice under this regulation.
- (3) A council may at any time, by resolution supported by at least two-thirds of the members of the council entitled to vote on the resolution, alter a code of practice, or substitute or revoke a code of practice.
- (4) A council must, in considering the exercise of a power under this regulation, take into account the Guiding Principles.

Based on legal advice obtained in July 2018, of sections 6(1) and 6(3) of the *Local Government (Procedures at Meetings) Regulations* direction relating to resolving to alter, substitute or revoke a Code of Practice requires a resolution supported by at least two thirds of the members of the Council entitled to vote on the resolution. This is interpreted as being the number of Members who are present in the meeting room for the vote, excluding the Mayor who is only entitled to vote in the event of a tie. The Mayor should only be included in the calculation in the event of a tie. Any

member who is an apology or is absent from the meeting or if a member declares a conflict of interest and leaves the meeting or is otherwise not in his/her seat is to be excluded for the purposes of the calculation.

**Notice No 1: Voting**

For the period Notice No 1 has effect, a vote in relation to a question for decision before the Council may be taken:

- (a) a show of hands; or
- (b) where a member is participating in a meeting by electronic means which has audio only, a verbal or written indication of voting in the affirmative or voting in the negative.

The Presiding Member, or any other member, may ask the CEO to read out a motion or amendment before a vote is taken.

In relation to a member participating in a Council meeting by electronic means, a member is not permitted to vote in circumstances where there has been a disconnection of the electronic means.

## 2.64.6 Addresses by Members

**Legislation – Regulation 15 (1) to (6)**

Subregulations (1) and (2) – has been varied by Council in relation to Committees

- (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

Elected Members will stand when addressing Council. However, to provide for sufficient flexibility, the Mayor will have the discretion to determine whether Elected Members are required to stand or may remain seated while speaking. This may occur for various reasons (whether it be to assist with voice projections through the audio system or to take into account other limitations). At Committee meetings Members may remain seated while they are speaking.

For Committee meetings, regulation 15(1) & (2) are varied at the discretion of the Presiding Member as informal dialogue is encouraged concerning Agenda matters insofar as is permitted within the Regulations and the Committee's Terms of Reference.

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.

The Presiding Member should generally refrain from entering the debate 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 or clarification to assist the debate when required.

**Notice No 1: Voting**

~~For the period Notice No 1 has effect, will not be required to stand when addressing Council.~~

## 2.64.7 Divisions

### Legislation – Regulation 17

Subregulation (3) - varied by Council

- (2) A division will be taken at the request of a member.
- (3) 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.
- (3) The division will be taken as follows:
  - (a) the member voting in the affirmative will, until the vote is recorded, stand in their places;
  - (b) the members voting in the negative will until the vote is recorded, sit in their seats;
  - (c) the presiding member will count the number of votes and then declare the outcome.
- (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)
- (5) Subregulation (3) may be varied at the discretion of the council pursuant to regulation 6.

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.

It is noted, that a Division cannot be called on an amendment as it is not a motion.



**Notice No 1: Divisions (varied in accordance with regulation 17(5))**

For the period Notice No 1 has effect, a division is taken as follows:

- (a) except for a member participating in a meeting by electronic means which has audio only:
  - (i) the members voting in the affirmative will, until the vote is recorded, stand in their places (or provide verbal indication of voting in the affirmative);
  - (ii) the members voting in the negative will, until the vote is recorded, stand in their places (or provide verbal indication of voting in the negative);
  - (iii) the Presiding Member will count the number of votes and then declare the outcome;
- (b) where a member is participating in a meeting by electronic means which has audio only, the member will provide a verbal indication of voting in the affirmative or voting in the negative.

**2.64.8 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.

The Minutes will record all Points of Order called by a member and the Presiding Member's ruling on the Point of Order, along with the reason for the ruling (if provided). Any Points of Order that do not comply with regulation 28(2) will be recorded in the Minutes along with a notation that it did not comply, if so determined by the Presiding Member.

**2.64.9 Minutes**

Where possible, the Minutes of the meeting will be recorded electronically on a screen that is viewable by the meeting.

A copy of the minutes of a meeting of the Council must be placed on public display on a website determined by the CEO within five days after the meeting and kept on display for a minimum period of one month.

**2.64.10 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 may follow a voting procedure in

accordance with Attachment 1. This process may be varied by Council staff or by resolution as required.

## 2.7.5 Meeting Etiquette

Each meeting will follow the practice as detailed below:

- Where Council or a Committee has been meeting for two and a half hours without adjournment a resolution may be invited by the Presiding Member for the meeting to adjourn for 10 minutes

The following meeting etiquette will apply to Council and Committees ~~(subject to the matters referred to regarding Notice No 1)~~:

- At the beginning of each Council term, the Mayor will determine the seating arrangements of Elected Members in the Council Chamber (for Council Meetings only). These seating arrangements will remain until the end of a Council term, unless the Presiding Member or CEO determines otherwise.
- 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 and Committee meetings
- During Council and Committee meetings employees will respond to questions from the floor at the invitation of the Presiding Member and will acknowledge the Presiding Member before replying.
- Elected Members, Committee members and employees are to use respectful language and adopt civil behaviour.
- At a Council meeting the Principal Member will be addressed as "Mr or Madam Mayor" and Committee members including the Presiding Member should be addressed by their first name.
- For Council or Committee meetings that are held in the Chamber, 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 Committee meetings.

### 2.7.5.1 Visual or Audio Recordings

Members of the public who wish to record audio or visual footage of a Council or Committee meeting must first obtain the approval of the Presiding Member.

Council employees may take visual footage (including photographs) for the purposes of Council business. Elected Members must seek and obtain approval from the Presiding Member, and permissions of all people included in footage, before taking visual footage (including photographs) or audio recordings and/or publishing images that feature any other individual. Any other

provisions for audio recordings by staff may be included in the Code of Practice – Access to Council and Committee Meeting Documents.

An audio recording of each Council meeting (with the exception of matters where the public is excluded from attendance at a meeting or where technical difficulties arise) will be taken to support the accurate recording of the Council Meeting minutes and be managed in accordance with the State Records Act. Where an Elected Member requests a copy of a recording prior to its destruction, a copy will be provided and the request recorded in a register and all Elected Members will be informed.

[Council is committed to providing greater accessibility to Council meetings through live streaming of Council meetings.](#)

**Commented [TD1]:** DISCUSSION POINT: To consider Live-Streaming Options

**Notice No 1: Visual or Audio Recordings**

~~For the period Notice No 1 has effect, visual or audio recordings or live stream will be undertaken in a manner determined by the CEO, this includes whether a matter is recorded or live-streamed.~~

## 2.75.2 Family and Worker Friendly Meeting Times

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

1. All Committees establish a meeting schedule that incorporates a minimum of 50% of meetings held outside of normal business hours (that is outside of 8.30am – 5.00pm)
2. Any decrease from this 50% position for any individual Committee must be referred to Council for consideration along with a justification / explanation for the request.

## 2.86 Table of variations

The following table is a list to show the regulations available to be varied and where Council has varied its meeting procedures, and the relevant page number for further information.

Regulation	Sub-regulation	Variation
Regulation 10	(2)	Not varied by Council ( <i>Petition</i> )
Regulation 12	(10)(c)	Varied by Council ( <i>Motions</i> )
Regulation 12	(9) (10)(a) (10)(b) (11)	Not varied by Council ( <i>Motions</i> )
Regulation 13	(1), (3), (4) (5)	Not varied by Council ( <i>Amendments</i> )
Regulation 15	(1) and (2)	Varied by Council in relation to Committees ( <i>Addresses by Members</i> )
Regulation 17	(3)(b)	Varied by Council ( <i>Divisions</i> )
Regulations 19	(3)	Varied by Council ( <i>Adjourned Business</i> )

## 3. DEFINITIONS

For the purpose of this Code the following definitions apply:

Act

Local Government Act 1999.

#### 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.

#### Clear Days

As defined in the Regulations, means the number of calendar days between the giving of the Notice and the meeting. This is determined by excluding the day on which the Notice is given and the day of the meeting e.g. if Notice is given on a Friday for a following Tuesday meeting, then the Clear Days are the intervening Saturday, Sunday and Monday.

#### Code

Code of Practice for Meeting Procedures.

#### Committee

Refers to key (section 41) Council Committees established under the Local Government Act 1999.

#### Connect

Means able to hear and/or see the meeting, including via a live stream or recording of the meeting.

#### Disconnection of the electronic includes:

- ~~(a) ending a telephone connection such that the discussion and voting at the meeting cannot be heard~~
- ~~(b) ending a video conferencing such that the discussion and voting at the meeting cannot be seen or heard~~
- ~~(c) logging out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard~~
- ~~(d) signing out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard~~
- ~~(e) disconnecting any other electronic means such that the discussion and voting at the meeting cannot be seen or heard.~~
- ~~(f) —~~

#### Elected Members

Includes the Councillors and the Mayor of the City of Tea Tree Gully.

#### Electronic Means

Includes a telephone, computer or other electronic device used for communication.

#### Leave of the Meeting

As defined in the Regulations. Approval is determined by a majority show of hands of the meeting by members of Council or Committee.

#### Live stream

~~Means the transmission of audio and/or video from a meeting at the time that the meeting is occurring.~~

#### Minutes

A written record of the proceedings at every meeting of the Council or a Committee in accordance with the Act and Regulations.

#### Notice of a meeting (Notice)

Pursuant to section 83 of the Act in the case of an ordinary meeting of Council or Committee, the CEO must give each member of the Council or Committee notice of the meeting at least three Clear Days before the date of the meeting. In the case of a special meeting of Council or Committee, the CEO must give each member of Council or Committee notice of the meeting at least four hours before the commencement of the meeting. A Notice of a Council Meeting must be in writing, set out the date, time and place of the meeting, be signed by the CEO and contain or be accompanied by the Agenda for the Meeting. For Committees, the Notice is not required to be signed by the CEO.

#### Presiding Member

As defined in the Regulations. The person who is the Presiding Member of a council or committee (as the case may be) and includes any person who is presiding at a particular meeting.

#### Public Gallery

The area in Council or Committee meetings designated for members of the public who wish to observe the meeting proceedings.

#### Regulations

Local Government (Procedures at Meetings) Regulations 2013

#### Written Notice

A notice given in accordance with the requirements prescribed within the Regulations.

## 4. LEGISLATIVE FRAMEWORK

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

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, by adopting a Code of Practice. If there are variations, then Council is required to review the operation of this Code at least once in every financial year.

Subject to the requirements of the Local Government Act 1999, and any allowable variations to 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.

(Note: for Council purposes, this vote is to be recorded separately in detail in the Council Minutes).

#### 4.1 Other references

Council's documents including:

- a. [Code of Practice – Access to Council and Committee Meeting Documents](#)
- b. [Committee Structure – Terms of Reference and Membership](#)
- c. [Fees and Charges Register](#)
- d. [Petition Management Policy](#)
- e. [Code of Conduct for Council Members](#)

### 5. STRATEGIC PLAN/POLICY

#### 5.1 Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:

Objective	Comments
Community	
<i>People can have a say in decisions that affect them and the key decisions of the Council</i>	This Code provides opportunity for the Community to participate in Council and Committee meetings and have the opportunity to speak on matters that may affect them.

### 6. POLICY IMPLEMENTATION

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

## Attachment 1 - 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 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. 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.

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 Presiding Member will call for candidate(s) and a paper ballot (one vote per Elected Member) will be arranged by the Governance and Policy Department
- 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 a staff member of the Governance and Policy Department and scrutinised by the CEO (or delegate), the Presiding Member will invite a motion from the floor, recommending the candidate(s) with the most votes to be the appointee(s).



REPORT FOR

**COUNCIL MEETING**

MEETING DATE

**28 JULY 2020**

RECORD NO:  
REPORT OF:  
TITLE:

**D20/59336**  
**OFFICE OF THE CHIEF EXECUTIVE OFFICER**  
**OPTIONS FOR PUBLISHING COUNCIL MEETINGS**

### **PURPOSE**

To provide Council with the opportunity to consider options for recording and publishing Council meetings with the return of face to face meetings, as well as providing for electronic participation in Council meetings for public forums and deputations.

### **RECOMMENDATION**

*To be considered as separate resolutions*

*Please select one of the following:*

1. **During COVID 19 Restrictions - (while the Public Health Emergency: Electronic Participation in Council Meetings (No 1) has effect)**

#### **1A. Live-streaming (Audio) Council Meetings**

That having considered the report entitled "Options for Publishing Council Meetings" and dated 28 July 2020, Council supports the continuation of live-streaming, based on Option 1 from Table 4 within the report (audio and active minutes only) during the current COVID-19 restrictions even when not required by legislation (noting that if any Elected Member attends via electronic means the meeting must be live-streamed or the audio will be recorded and published with the relevant minutes on Council's website at a later time).

**OR**



**1B. Not live-streaming Council Meetings**

That having considered the report entitled “Options for Publishing Council Meetings” and dated 28 July 2020, Council does not support the continuation of live-streaming Council meetings (audio and live minutes) during current COVID-19 restrictions, noting that if any Elected Member attends via electronic means that the meeting will be live-streamed (audio and visual) or recorded and published later in accordance with legislative requirements.

*Please select one of the following:*

**2. Post COVID-19 Requirements:****2A. Status Quo Prior to COVID-19 Restrictions**

That having considered the report entitled “Options for Publishing Council Meetings” and dated 28 July 2020, Council supports the continuation of Council’s current practice of audio recording of Council meetings to support the accurate recording of the Council Meeting minutes post COVID-19 restrictions.

OR

**2B. Live-Streaming of Council Meetings (requires two thirds of majority)**

That having considered the report entitled “Options for Publishing Council Meetings” and dated 28 July 2020:

1. Council endorses the provision of live-streaming for Council meetings post COVID-19, based on Option 1 from Table 4 within the report (audio and live minutes only), and enabling members of the public being able to participate via electronic means for public forum and deputations.
2. The Code of Practice for Meeting Procedures be amended as follows:
  - ‘Public Forum’ and ‘Deputation’ sections be amended to enable members of the public to participate via electronic means
  - ‘Visual or Audio Recordings’ be amended to provide for live-streaming of Council meetings (audio and active minutes only), with the recording of Council meetings to support the accurate recording of the Council Meeting minutes post COVID-19 restrictions.

**3. Changes to Terms of Reference**

That the Terms of Reference for Council’s Audit Committee be amended to provide for any Committee member to participate via electronic means subject to authorisation by the Presiding Member.

## 1. BACKGROUND

At its meeting on the [20 February 2019](#) the Policy and Strategic Development Committee made the following resolution:

*"That a report be returned to the Policy and Strategic Development Committee that further explores the option and costs of visual/audio streaming or recording Council meetings".*

It was requested by the Policy and Strategic Policy Development Committee on the [19 June 2020](#) that a report be presented that included the following:

- Further options beyond live streaming Council meetings including video and audio-only recording
- Overview of Local Government trends in South Australia
- Further information on costs including both capital investment and operational.

This report was provided to the Policy and Strategic Development Committee on [19 February 2020](#) where the Committee resolved:

*"That having considered the report entitled "Options for Publishing Council Meetings" and dated 19 February 2020, the Policy and Strategic Development Committee supports the continuation of Council's current practice of audio recording of Council meetings to support the accurate recording of the Council Meeting minutes."*

## 2. DISCUSSION

### 2.1 Requirements during COVID-19 restrictions

During the declaration of the Public Health Emergency relating to COVID-19, Council considered a report on [14 April 2020](#) in which Elected Members could participate in Council and Committee meetings and Elected Member workshops via electronic means (as a result of the Public Health Emergency: Electronic Participation in Council Meetings (No 1) ([Notice No 1](#)). Under these temporary legislative provisions while COVID-19 is in effect, if an Elected Member participates in a meeting via electronic means, then the meeting must either be live-streamed or recorded and placed on the Council's website after the meeting for viewing by members of the public. If this is not possible, then a statement must be placed on Council's website explaining the reasons why.

To date, Council has been able to live-stream a majority of the meetings. Initially some of these meetings were recorded and published on Council's website while staff continued to investigate sustainable options for live-streaming the meetings.

On 1 June 2020, stage 2 on the state's roadmap for easing COVID-19 restrictions commenced. As a part of the stage 2 arrangements it was clarified that Council and Committee meetings in physical locations were permitted as long as restrictions for members of the public observing the meeting were met. On 29 June 2020, the physical distancing requirements changed (still encouraging 1.5m spacing, with 1 person for 2 square metres density requirement instead of 4) which now makes it feasible to return to face to face meetings with public gallery also present in the same room (noting a register of those who attend will need to be kept).

Based on the statistics collated during this period and monitoring the online views of Council and Committee meetings to date, it was considered appropriate to provide a report to Council exploring options for publishing Council and Committee meetings both during and post COVID-19 restrictions, as Elected Members commence returning to face to face meetings.

Table 1 below provides statistics on the viewers for each meeting that has currently been live-streamed during COVID-19. The total viewers is the number of individual log-ons during the meeting period and the peak viewers is the highest number during any one time.

**Table 1 – Live-stream viewing statistics of meetings**

Meeting Type	Date	Total Viewers	Peak Viewers
<b>Council</b>			
Council Meeting	28 April	56	25
Council Meeting	12 May	41	25
Special Meeting of Council	19 May	27	9
Council Meeting	26 May	75	29
Special Meeting of Council	28 May	27	11
Council Meeting	9 June	68	26
Council Meeting	23 June	27	24
Special Meeting of Council - 6.30	29 June	16	13
Special Meeting of Council – 7.00	29 June	315	63
<b>CEO Performance &amp; Remuneration Review Committee</b>			
CEO Performance Review	22 June	7	6
<b>Policy &amp; Strategic Development Committee</b>			
Policy & Strategic Development Committee Meeting	17 June	27	9
<b>Audit Committee</b>			
Audit Committee Meeting	22 April	31	26
Audit Committee Meeting	27 May	12	9
Special Audit Committee Meeting	1 July	6	3
<b>Elected Member Workshops</b>			
Elected Member Workshop	30 June	4	3
Elected Member Workshop	5 May	6	4

**Table 2 – Physical public attendance at Council meetings**

Meeting Type	Date	Total Viewers
Council Meeting	21 January	18
Council Meeting	11 February	10
Council Meeting	25 February	19
Special Meeting of Council	3 March	2
Council Meeting	10 March	15
Council Meeting	24 March	4

Statistics have not been collated for public attendance at Committee meetings and Elected Member workshops pre-live streaming as this is generally nil.

It is noted that the viewing of live-streamed meetings during the COVID-19 period exceeds the physical attendance by members of the public at meetings prior to COVID-19. Attendance numbers for meetings are often topic dependent, however overall there appears to be a general trend of higher attendance by members of the public while meetings were live-streamed.

The sections below outline the requirements for live-streaming and electronic meetings for both during and post COVID-19 restrictions for Council, Committees and Elected Member Workshops. However, in the event of a further outbreak of COVID-19 in South Australia, there is the potential for further restrictions to be implemented which may further impact the delivery options of Council and Committee meetings.

The current provisions in Council's Code of Practice for Meeting Procedures (during COVID-19) have effect for the period specified in ([Notice No. 1](#)). This period is defined as 28 days after the cessation of all relevant declarations relating to the emergency, which at the point of preparing this report is 22 August 2020 (assuming no further extensions to the existing Declaration of a Major Emergency from 27 June 2020). These current provisions determine that visual or audio recordings or live stream will be in a manner undertaken by the CEO (which includes whether a matter is recorded or live streamed). Having regard for this, the CEO is seeking member feedback in relation to this matter now that Council meetings have returned face to face, but while Notice No 1 is still in effect. The purpose of this report is to obtain these views, and also enable Council to consider potential arrangements post COVID-19.

## **2.2 Council Meetings**

### **2.2.1 COVID-19 Requirements**

The CEO has determined (taking into account feedback from Elected Members) that face-to-face Council meetings will resume on 28 July 2020. The Elected Members will be situated in the Council Chambers and members of the public in the Public Gallery whilst adhering to the required physical distancing requirements. A strict cleaning regime and preventative measures will remain in place and a register of attendance will be kept.

The legislative requirement to live-stream Council (or Committee meetings) only arises if one or more Elected Members are attending the meeting via electronic means. As Council meetings will be face to face as of 28 July 2020, options have been included in the recommendation to provide Council with the opportunity to consider whether live-streaming Council meetings when all members are participating face-to-face (both while the public health declaration is in effect and after the public health declaration ceases to be in effect).

It is noted that the discretion of the CEO to determine whether Elected Members are able to participate in Council meetings via electronic means will end after the public health declaration (particularly Notice No 1) ceases to be in effect. The Local Government Review Bill 2020 (commonly referred to as Local Government Reform), which proposes to amend the *Local Government Act 1999* does not provide for any future ability for members to participate in Council meetings electronically (with the exception of a public health declaration that temporarily varies the legislation).

The approach to Committee meetings is at the discretion of the Council. Section 89 of the *Local Government Act 1999* and regulation 16 of the *Local Government (Procedures at Meetings) Regulations 2013*, enables Council to determine its own procedures for Committees (as long as the requirements of the Act and Regulations are met), which may include attendance at meetings via electronic means. It should be noted that the requirements for meetings to be held in public still remain.

### **2.2.2 Post COVID-19**

Council may consider if Council meetings should be live-streamed post the COVID-19 public health declaration or whether Council meetings return to the status quo prior to the COVID-19 pandemic. The status quo prior to COVID-19 was that Council meetings (excluding confidential items) were audio recorded only, and this audio recording was only taken to support the accurate recording of the meeting minutes. Elected Members could request a copy of the audio recording in line with the [Code of Practice for Meetings Procedures](#). Members of the public would need to request access through a Freedom of Information application.

#### **2.2.2.1 Options for live streaming including video and audio-only recording (post COVID-19)**

In order to increase accessibility of Council meetings without community members needing to physically attend or access Council agendas and minutes, Council could consider the following options:

**Live streaming** - online [streaming media](#) simultaneously recorded and [broadcast](#) in real time. This could be via video (picture and sound) or audio (sound only) recordings

**Video (picture and sound) or audio (sound only) recordings** - a recording of the meeting that is made available following the conclusion of the meeting for a prescribed timeframe.

**Reverting to pre COVID-19 practices** – Physical attendance required by members of the public. Audio recording (excluding confidential items) only taken to support the accurate recording of the meeting minutes.

### 2.2.2.2 Overview of Local Government trends in South Australia

The following table has been put together to provide a high level understanding of other South Australian (SA) councils current approach to publishing Council meetings. Most of this data was collected in October 2019 (pre COVID-19) and therefore may not take into account new practices being implemented by Councils post COVID-19:

**Table 3: Overview of Local Government**

SA councils	Video Recording	Audio-Only Recording	Live streaming
Adelaide Hills Councils	No	Yes – not public	No
City of Adelaide	Yes – available via YouTube	No	Yes – streamed to website via Skype
City of Burnside	Yes	Yes – not public	Yes
City of Campbelltown	Yes – file is uploaded to website	Yes	No
City of Charles Sturt	No	No	No
City of Gawler	No	No	No
City of Marion	No	Yes	No
Mount Barker District Council	No	Yes – not public	No
City of Onkaparinga	No	No	Currently exploring
City of Playford	No	No	No
City of Port Adelaide Enfield	Currently investigating	Currently investigating	Currently investigating
City of Prospect	Yes – available via YouTube	No	No
City of Salisbury	No	Yes – not public	No
City of West Torrens	No	No	In principle support
City of Victor Harbour	Yes – available via YouTube	Yes	Yes – streamed on website

### 2.2.3 Capital and operational costs

Live-streaming without electronic participation by members in meetings (e.g. via MS Teams) requires additional considerations in relation to capital and operational costs.

The current audio-visual system in our Council Chambers supports audio recording of meetings (current process pre COVID-19).

There is the possibility to live stream a Council meeting using audio only (with visual only displaying the minutes). This approach does not require the purchase of a camera(s), but it is noted that the live streaming or recording of video of Council meetings does require purchase of camera(s).

The additional costs associated with publishing Council meetings are outlined in the tables below:

**Table 4: Capital Costs**

Video or Live-streaming		
<b>Scenarios</b>	<b>Estimated Costs (including installation and programming)</b>	<b>Comments</b>
<b>Option 1 – No camera (Preferred Option)</b>  Audio of elected members only livestreamed (no visual of members speaking) in conjunction with minutes screen	Operational costs only	This approach is possible with only minimal operational costs for live-streaming and represents a pragmatic solution as the camera/video of members would not be shown but rather the live minutes screen and audio would be published.  No further capital costs would be required, as there is already existing technology available to live-stream audio and minutes.
<b>Option 2 – One camera</b>  One camera wide shot of Council chambers from a distance	\$7,000 - \$9,000	This would only show the room from a distance and is likely to make it difficult to recognise who is speaking.
<b>Option 3 – Four cameras</b>  Four cameras showing a wide shot with toggling functionality to show east/left, west/right, Mayor/staff to south, public forum/deputation area.	Approximately \$30,000 - \$45,000	This would be the preferred option visually out of the 3 camera options as it would toggle from either left side, right side or front view depending on where the person was speaking from. It will minimise the unnecessary toggling between people.
<b>Option 4 – Roaming camera</b>  All-in-one roaming camera that moves to the person speaking	\$16,000 - \$25,000 (costs would need to be explored further if this option was supported)	While this option displays individuals who are speaking, current feedback from organisations who use this option is that it can constantly toggle. This is because the camera moves any time it senses noise and will try to move towards it i.e if someone coughs it will move towards them rather than person talking.

There are no budget allocations in 2020-21 for any of the 3 camera options in Table 4.

**Table 5: Operational costs**

In addition to the required technology, operational support would also be required to facilitate its use. It is noted that these costs are currently being incurred during COVID-19 to support existing live streaming arrangements.

Activity	Audio-only	Video	Live streaming
<b>System</b>	Currently available	See scenarios below	
<b>Testing / uploading / records management</b>	\$200 per meeting	\$200 per meeting	1 extra staff resource to attend the meeting to monitor to ensure operating effectively and address technical issues, including preparation before and close down after the meeting
<b>Editing including adding graphics</b>	N/A	\$880 to \$1,000 per meeting (depends on length)	N/A

The above operational costs are only anticipated to be in the initial stages. If live-streaming is supported, work could be undertaken to automate some of these functions and reduce longer term reliance of technical staff to manage the live-stream platform.

If Council resolves to continue live-streaming during and/or post COVID-19, official quotes will be obtained as prices stated in this report are estimates only but based on preliminary market research.

To reduce costs associated with editing it is recommended that confidential items always occur at the end of the meeting instead of mid-way through the agenda where possible. This is consistent to Council's current approach to these items. Currently Council's [Code of Practice for Meeting Procedures](#) does not require confidential items to be recorded.

If Council resolves to continue live-streaming both during and post COVID-19 requirements, there may be a requirement for an additional staff member to attend the meetings for the purposes of monitoring the live-streaming. Otherwise the alternative is for this to be unmonitored on the night and if any technical issues arise, accept that they may not be resolved. This is likely to reflect poorly on Council's reputation and could mean that some members of the public might not be able to see or hear a Council meeting. Accordingly this option is not recommended on the basis that if we are going to do it we should do it properly, albeit within a reasonable budget allocation for the task at hand.



#### **2.2.4 Staff attendance at Council meetings**

During the COVID-19 requirements, the efficiencies and effectiveness of staff being able to attend meetings remotely has been recognised. There is a cost to the organisation in having numerous staff in physical attendance on site for an entire meeting when they may only need to participate in 1 or 2 items. In order to improve efficiencies post COVID-19, a solution has been developed that will enable staff to participate remotely (via electronic means) while being able to be heard and seen by all members attending physically in the Council Chambers. This enables staff to only join the meeting for the item(s) specifically relating to their role in order to answer any questions members may have. It also allows for a lot more interested staff to attend a Council meeting which adds to their own personal development and greater engagement with the diverse operations of our Council.

The CEO will determine a process moving forward and initiate a trial period to test this revised approach, to enable evaluation of its effectiveness. Ultimately the decision will remain with the CEO as to how staff are to participate in the meeting and in what platform, taking into account feedback from Elected Members and staff. It is anticipated that to start with Council's Executive Leadership Team and possibly one or two key managers who are presenting will attend in person along with Council's Governance staff.

Elected Member feedback indicates that when a staff member is required to provide a presentation to a meeting, ideally the staff member would be physically present in the Council Chambers. This would ensure the technology requirements are sufficient (noting video presentation impacts data usage and can result in issues in continuity of video and audio) as well as enabling members to engage with the staff member in discussions.

The approach to this will be determined by the CEO based on the quality of the remote connection and the topic being presented.

#### **2.2.4 Public attendance and participation in Council meetings (Deputations and Public Forums)**

Similar to the approach with staff attendance at Council meetings, there is the possibility to also continue public participation in Council meetings via electronic means post COVID-19. This would require amendment to the Code of Practice for Meeting Procedures and relevant guidelines as contained in the recommendations provided.

It is anticipated that the requirements for social distancing may be present for some time. One of the key reasons for presenting this matter to Council for consideration, is to enable viewing and/or hearing Council meetings online. While the Council Chambers and Public Gallery are able to cater for a reasonable number of individuals, it doesn't cater for the numbers that are currently viewing meetings online. Continuing live-streaming will enable members of the public to view (and potentially participate in) the meeting, without the need to encourage them to physically attend, particularly during the period that social distancing requirements are maintained.

It is very apparent that substantially more people are attending parts of a Council meeting on line that has been the general practice in the past for physical attendance in the public gallery.

### 2.3 Committee Meetings

Elected Members have now returned to undertake face to face Committee meetings and Elected Member Workshop on 20 July and 21 July respectively, based on feedback from members and the CEO.

Council will also need to consider if, going forward, they wish for any Committee meetings to be live streamed or published. Any meetings that this is considered for would need to be held in the Council Chambers to minimise infrastructure and installation costs. The costs listed in Tables 4 & 5 above would also apply. The recommendation only focuses on Council meetings and the option for Committees has not been included in the recommendation.

Council should consider what the best approach is, however based on feedback a staff recommendation is presented in Table 6, which provides an overview on the suggested approach going forward both during COVID-19 (while Notice No 1 is in effect) and post COVID-19:

**Table 6 – Suggested Committee meeting approach going forward**

Committee	COVID-19		Post COVID-19	
	Elected Members	Staff	Elected Members	Staff
<b>CEO Performance and Remuneration Review Committee</b>	Face-to-face / Physical attendance	Face-to-face / Physical attendance	Face-to-face / Physical attendance	Face-to-face / Physical attendance
<b>Policy and Strategic Development Committee</b>	Face-to-face / Physical attendance	Attendance via electronic means. Governance & CEO and some of ELT physical attendance	Face-to-face / Physical attendance	Attendance via electronic means. Governance & ELT physical attendance
<b>Audit Committee</b>	Attendance via electronic means or face-to-face/physical attendance	Attendance via electronic means. Governance & CEO and some of ELT physical attendance	Attendance via electronic means or face-to-face/physical attendance	Attendance via electronic means. Governance & ELT physical attendance
<b>Traffic Management Safety Committee</b>	Face-to-face / Physical attendance	Face-to-face / Physical attendance	Face-to-face / Physical attendance	Face-to-face / Governance & ELT physical attendance

Committee	COVID-19		Post COVID-19	
	Elected Members	Staff	Elected Members	Staff
<b>Elected Member Workshops</b>	Face-to-face / Physical attendance  (or via electronic means – topic dependent)	Face-to-face / Physical attendance CEO and some of ELT  (or via electronic means – topic dependent)	Face-to-face / Physical attendance  (or via electronic means – topic dependent)	Face-to-face / Physical attendance  (or via electronic means – topic dependent)

### **2.3.1 CEO Performance and Remuneration Review Committee**

#### **2.3.1.1 COVID 19 Requirements**

The CEO Performance and Remuneration Committee met on 20 July 2020. This meeting was held at the Civic Centre and all members attended face-to-face including any staff that were required to attend.

It is suggested that face-to-face meetings occur, where possible, given the nature of discussions for this particular Committee. As mentioned above, the public health emergency declaration has not yet ceased to take affect and live-streaming is only required if a member is attending electronically. It is not proposed that this meeting be live-streamed unless required to given this Committee only directly impacts the CEO.

Staff required to attend this meeting i.e. the CEO and the Manager Governance and Policy and CEO will attend physically. Any other staff required to attend could do so via electronic means.

#### **2.3.1.2 Post COVID 19 Requirements**

It is suggested that the CEO Performance and Remuneration Committee continue to meet face-to-face for meetings post COVID-19. It is also suggested that staff required to attend these meetings mainly do so physically rather than electronically.

It is not proposed that this meeting be live-streamed unless required to given this Committee only directly impacts the CEO.

### **2.3.2 Policy and Strategic Development Committee**

#### **2.3.2.1 COVID 19 Requirements**

It is suggested that face-to-face meetings occur, where possible, given the nature of discussions for this particular Committee. As mentioned above, the public health emergency declaration has not yet ceased to take affect and live-streaming is only required if a member is attending electronically. It is not proposed that this meeting be live-streamed unless required to on the basis that any major changes to policy must be presented to a public Council meeting anyway.

It will remain at the CEO's discretion if staff will attend physically or via electronic means for these meetings. Governance staff will attend physically to assist Committee members during the meeting as will Council's ELT.

#### **2.3.2.2 Post COVID 19 Requirements**

It is suggested that the Policy and Strategic Development Committee continue to meet face-to-face for meetings post COVID-19, as proposed above.

It will remain at the CEO's discretion if staff will attend physically or electronically to these meetings. Governance staff will attend physically to assist Committee members during the meeting.

It is not proposed that this meeting be live-streamed unless required to on the basis that any major changes to policy must be presented to a public Council meeting anyway.

### **2.3.3 Audit Committee**

#### **2.3.3.1 COVID 19 Requirements**

It is suggested that electronic meetings continue to occur for the Audit Committee. As mentioned above, the public health emergency declaration has not yet ceased to take affect and therefore if meetings continue electronically the live-streaming will be required as members are attending electronically.

This will also mean staff required to attend will do so electronically, however it will remain at the CEO's discretion. Governance staff will continue to attend physically to assist the Presiding Member during the meeting.

#### **2.3.3.2 Post COVID 19 Requirements**

It is suggested that the Audit Committee could remain as electronic meetings given the nature of the Committee post COVID-19.

It will remain at the CEO's discretion if staff will attend physically or electronically to these meetings. Governance staff will attend physically to assist the Presiding Member during the meeting. ELT will also attend in person unless there are no relevant subject matters for that ELT member.

It is not proposed that this meeting be live-streamed.

The Committee Structure Terms of Reference will be updated to allow more than one Committee member to attend via electronic means (as already one is able to attend via this method) and has been included in the recommendations. It is also suggested that if this is a permanent arrangement for any Committee member(s) then the support of the Committee should be obtained.

#### **2.3.4 Traffic Management Safety Committee**

##### **2.3.4.1 COVID 19 Requirements**

It is suggested that face-to-face meetings occur, where possible, given the nature of discussions for this particular Committee and attendance from other agencies. As mentioned above, the public health emergency declaration has not yet ceased to take affect and live-streaming is only required if a member is attending electronically. It is suggested that this meeting not be live-streamed unless required to.

It will remain at the CEO's discretion if staff will attend physically or electronically to these meetings, but it is initially suggested staff attend the meeting physically noting these meetings are held during work hours. Governance staff will attend physically to assist Committee members during the meeting.

##### **2.3.4.2 Post COVID 19 Requirements**

It is suggested that face-to-face meetings occur, given the attendance from other agencies (which could change meeting to meeting). The training, set up and testing requirements to enable electronic attendance of these members would not be cost effective as a longer term approach.

It will remain at the CEO's discretion if staff will attend physically or electronically to these meetings, but it is proposed that staff attend the meeting physically noting these meetings are held during work hours. Governance staff will also attend physically to assist Committee members during the meeting.

It is not proposed that this meeting be live-streamed.

#### **2.3.5 Elected Member Workshops**

Council will also need to consider if they wish for any Elected Member workshop meetings to be live streamed or published. These meetings would held in the Council Chambers to minimise infrastructure and installation costs. The costs listed in Tables 4 & 5 would also apply. The recommendation only focuses on Council and Committee meetings and this option has not been included for Elected Member Workshops.

##### **2.3.5.1 COVID-19 Requirements**

It is suggested that face-to-face meetings occur, where possible, given the nature of discussions and level of interaction required at Elected Member Workshops, which is made more challenging, and may be less efficient and effective by electronic attendance. As mentioned above, the public health emergency declaration has not yet ceased to take affect and live-streaming is only required if a member is attending electronically. It is not proposed that these workshops be live-streamed unless required to given the low viewing statistics for Elected Member Workshops during COVID-19 (as it is not deemed the most effective use of Council resources).

It will remain at the CEO's discretion if staff will attend physically or electronically to these meetings, but it is initially suggested staff attend the meeting physically.

#### 2.3.5.2 Post COVID 19 Requirements

It is suggested that Elected Member Workshops continue to meet face-to-face for meetings post COVID-19, unless otherwise determined by the CEO. It is also suggested that staff required to attend these meetings mainly do so physically rather than by electronic means given workshops are generally based on 1 or 2 topics (and therefore less downtime involved for staff in comparison to Council meetings).

It is not proposed that these workshops be live-streamed unless required to given the low viewing statistics for Elected Member Workshops during COVID-19 (as it is not deemed the most effective use of Council resources).

### 3. STRATEGIC OBJECTIVES

#### Strategic Plan

The following strategic objectives in Council's Strategic Plan 2020 are the most relevant to this report:

Objective	Comments
<b>Community</b>	
<i>People feel a sense of belonging, inclusion and connection with the City and the community</i>	The promotion of options to access Council meetings will provided greater awareness of Council meetings and will assist our community to engage with matters that affect them.
<i>People can have a say in decisions that affect them and the key decisions of the Council</i>	Live streaming or publishing audio recording or video recording of Council meetings provides greater access to Council meetings and the decisions Council make.

#### Policies / Strategies

This report only impacts the Code of Practice for Meeting Procedures (Attachment 1).

The Code of Practice – Access to Council and Committee Meetings and Documents states that: *"Visual and Audio recordings are not to be taken outside of that prescribed in the Code of Practice for Council and Committee Meeting Procedures..."*.

Therefore changes are only required to the Code of Practice for Meeting Procedures. This does not require public consultation, but does require the vote of two thirds of a majority of Council to make any amendments. This is a more flexible document that enables amendment to meet Council requirements at any point in time.

The Committee Structure – Terms of Reference will be amended depending on the resolution of Council.

#### 4. LEGAL

If publishing Council meetings (and/or Committee meetings) is proposed to be ongoing, a set of terms and conditions will be developed to support content and these would be published on our website. It would be recommended that these terms and conditions be reviewed by a lawyer prior to publication and covers matters such as the *Surveillance Devices Act 2016* and the *Defamation Act 2005*.

#### 5. RISK – IDENTIFICATION AND MITIGATION

Notification to the community attending Council Meetings regarding recording or live-streaming of the meeting would need to be implemented. This could include onsite signage, promotion on our website and information in Council's agenda.

It is noted that during COVID-19, members of the public have taken advantage of the opportunity of to access and view Council and Committee meetings online, with a peak of 315 total viewers recorded for 29 June 2020 Special Meeting of Council. The period of time that meetings have been live streamed, means that there is the possibility that the community has developed an expectation of being able to view these meetings online, which should be considered by Council as part of its determination.

It is also standard practice for Councils that record their meeting that the Presiding Member states a disclaimer at the meeting. This disclaimer covers the details of the recording and informs attendees that they may be recorded. In addition, it is suggested that signage is placed at the entry providing details pertaining to the recording of meetings.

Terms and conditions regarding live streaming would need to be developed and these would cover:

- A general disclaimer including the fact that Council agendas and minutes are the official public record of meeting
- Privilege and protection covering content of the meetings including individual opinions and presentations
- Copyright information
- No liability attached to the City of Tea Tree Gully if technical difficulties are incurred.

It is noted that the publishing of the meetings has the potential to increase the risk of defamation proceedings and may also increase the quantum any damages awarded.

The proposed approach detailed in this report does seek to address potential health and safety concerns for Elected members, staff and members of the public. The arrangements enable social distancing arrangements to be maintained while still providing access to Council meetings for members of the community.

#### 6. PEOPLE AND WORK PLANS

This function can be managed within existing work plans and practices, noting that there would be a requirement for an additional staff member to attend the meetings if Council were to live-stream. Solutions are currently being developed to reduce the requirement for an additional staff member to run this function.

**7. FINANCIAL**

The costs associated with the different options are outlined in section 2.2.3 of this report.

The costs associated could be funded within the 2020-21 Financial Year Budget and dealt with as part of a quarterly budget review, noting that all options presented in Table 4 of the report, (with the exception of Option 1) would exceed the current allocated budget for upgrades/maintenance to the Council Chambers. Option 1 from Table 4 can be accommodated within the existing budget.

**8. ASSETS**

Investment in the Council Chambers audio-visual equipment will be required to set up and maintain this service.

**9. ENVIRONMENTAL**

N/A

**10. COMMUNITY AND STAKEHOLDER IMPACT**

Live streaming or publishing recordings of Council meetings provides greater accessibility to decision making. This includes eliminating geographical and time barriers which may prevent a person attending the meetings. It also supports the principle of transparency in regards to Council debate and decision making.

The City of Tea Tree Gully Draft Disability Access and Inclusion Plan 2020-2024 (yet to be adopted by Council, with community engagement recently undertaken), contains a theme of leadership and collaboration. A proposed outcome under this theme is to increase attendance and participation in formal Council and Committee meetings for people living with a disability. Online access of Council meetings is one suggested approach for delivering on this proposed outcome.

**11. COMMUNITY AND STAKEHOLDER ENGAGEMENT**

There is no requirement to undertake community consultation.

**12. PROMOTION AND COMMUNICATIONS OF COUNCIL DECISION AND OPERATIONAL IMPACTS**

Availability of live streaming and/or recordings will be promoted through appropriate communication channels.



**13. INTERNAL REPORT CONSULTATION**

The following staff have been included in the consultation process in the preparation of this Report.

<b>Name</b>	<b>Position</b>	<b>Consulted about</b>
David Yates	Team Leader Information Technology	Technology and Support
Adam May	Network Administrator	Technology and Support
Johanne Crammond	Business Analyst	Technology and Support

**Attachments**

N/A

**Report Authorisers**

Deana Taglierini Governance Advisor	8397 7263
Ilona Cooper Manager Business Continuity & Governance (Team B)	8397 7310
Ryan McMahon Director Organisational Services & Excellence	8397 7297
John Moyle Chief Executive Officer	8397 7201



City of Tea Tree Gully

Governance and Policy Committee

Document Cover Sheet

25 JULY 2022

## CODE OF PRACTICE - ACCESS TO COUNCIL AND COMMITTEE MEETINGS AND DOCUMENTS

Responsible Manager: Manager Governance and Policy

### Notice 1 Changes to Code of Practice

In March 2020, pursuant to section 87 of the *South Australian Public Health Act 2011* and section 23 of the *Emergency Management Act 2004* a public health emergency and major emergency was declared in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On this basis the operation of the specified provisions in the *Local Government Act 1999* (the 'Act') and *Local Government (Procedures at Meetings) Regulations 2013* (the 'Regulations') were varied or suspended the by way of the ['Electronic Participation in Council Meetings Notice \(No 1\) 2020'](#) published in the SA Government Gazette on 31 March 2020. Council at its meeting on 14 April 2020, considered a report relating to Electronic Participation in Council Meetings resulting from the Notice from the Minister.

On Tuesday 24 May 2022, the Emergency Declaration ended which means elements of the Code that relate to Electronic Participation in Council Meetings Notice (No.1) 2020 are only relevant for 28 days (until 21 June 2022) after the cessation of all relevant declarations for COVID-19 public health emergency.

This report addresses removing the inclusions in the Code as part of the Notice 1. As there are no significant changes proposed to the Code (beyond removal of the Notice No. 1 provisions), community engagement is not required.

## RECOMMENDATION

That the Governance and Policy Committee recommends to Council:

**That the “Code of Practice - Access to Council and Committee Meetings and Documents” as reviewed by the** Governance and Policy Committee on 25 July 2022 be adopted.

Summary of changes		
Page No.	Heading	Comments
The Policy has been reviewed in its entirety to remove references to Notice 1 of the COVID-19 Emergency Declarations.		
4-5	Public access to Documents	A new section added to incorporate documents under schedule 5 of the Local Government Act 1999 <b>that are required to be on the Council’s website.</b>
Changes during or after GPC Meeting for Council Meeting [date]		

Supporting Information

### Attachments

1. [Code of Practice - Access to Council and Committee Meetings and Documents - Reviewed version for 6 July 2022 GPC](#) ..... 188

# Code of Practice – Access to Council and Committee Meetings and Documents



Record number	D22/42156
Responsible Manager	Manager Governance & Policy
Other key internal stakeholders	NA
Last reviewed	
Adoption reference	
Resolution number	
Previous review dates	15/12/21, 14/04/20, 10/2/19, 9/05/17, 11/08/15, 11/03/14 (Access to Recordings of Council and Committee Meetings Policy has been merged into this), 11/06/2011, 12/8/08, 13/2/07, 24/2/04, 28/5/02, 3/10/00
	A Council must, within 12 months after each periodic election, review this Code
Legal requirement	Before Council adopts, alters or substitutes this Code, it must follow the relevant steps in its Community Engagement (Public Consultation) Policy
Due date next review	2023

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.

## 1. PURPOSE

The purpose of this Code is to clearly outline to the community how they may access Council and Committee meetings, agendas and reports as well as information or briefing sessions. In addition it outlines how public access to Council and Committee meetings or documents may be restricted.

The City of Tea Tree Gully supports the principle that the procedures to be observed at a meeting of Council or a Committee should contribute to open, transparent and informed decision-making and encourage appropriate community participation in the affairs of Council. Council recognises that on a limited number of occasions it may be necessary in the broader community interest to restrict public access to discussion or documents.

## 2. CODE

This Code should be read in conjunction with Council's Code of Practice for Council and Committee Meeting Procedures.

### 2.1 Electronic Participation in Council Meetings: Public Health Emergency (Notice No 1)

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the *Local Government Act 1999* (Notice No 1) (**Notice No 1**) varying or suspending the operation of the specified provisions of the *Local Government Act 1999* as set out in Schedule 1 to Notice No 1 which commenced operation on 31 March 2020.

For the period Notice No 1 has effect (as provided for in Notice No 1), this Code of Practice is altered as set out below and those alterations have effect notwithstanding any other provision in this Code of Practice to the contrary.

#### Notice No 1:

- a. provides that a Council is not required to adopt any provision in a code of practice that would prevent or inhibit members from participating in Council meetings or Council committee meetings by electronic means;
- b. provides that Council members may meet by electronic means to alter the code of practice of the Council, or substitute a new code of practice of the Council, even if the existing code of practice prevents or inhibits the Council members from meeting by electronic means;
- c. the requirement in section 92(5) that before a Council adopts, alters or substitutes a code of practice it make copies of the proposed code, alterations or substitute code (as the case may be) available for inspection and purchase at the principal office of the Council and on a website

~~determined by the Council and that the Council follow the steps set out in its public consultation policy is suspended while these provisions are in effect.~~

~~For the avoidance of doubt, save for the alterations to the Code of Practice as set out below this Code of Practice otherwise applies to all meetings of the Council. To the extent that any other provision in this Code of Practice could be read as being inconsistent or incompatible with the ability of the Council to hold electronic meetings, the provision is suspended while these provisions are in effect.~~

## 2.2 Council and Committee Meetings and Documents

### 2.2.1 Notice, Agenda and Reports

Public access to Council and Committee Agendas provides one of the main opportunities for the community to gain information about the business of Council and Committees. The following procedures apply to encourage public access to the Notice and Agenda:

- a. At least three Clear Days before a Council or Committee meeting (unless it is a special meeting) the CEO must give written Notice of the meeting to all Council and Committee Members
- b. ~~Subject to d., it~~ will be placed on public display at the principal office of Council and on Council's website three Clear Days prior to the meeting
- c. ~~Subject to d., it~~ will be kept on display until the completion of the meeting and continue to be published on the website
- d. ~~For the period of the operation of Notice No 1 the requirement that the CEO give notice to the public of the times and places of council meetings by placing the notice of meeting and agenda on public display at each office of the Council that is open to the public for the general administration of Council business within its area is **suspended**.~~

Various non-confidential documents from Council or Committee meetings are to be available for inspection by members of the public on Council's public website or at the meeting as soon as practicable after the document or report is supplied to members of the Council, pursuant to section 84(5) of the Act.

The Agenda may include a recommendation from the CEO that a document or report on a particular matter should be considered in confidence with the public to be excluded, in accordance with section 90 of the Act. Where this occurs, the CEO must specify the basis under section 90(3) where such an order could be made.

Requests to access documents can be made under the *Freedom of Information Act 1991*. Further information is available on Council's public website.

#### ~~For the period of the operation of Notice No 1:~~

- a. ~~the requirement that the CEO must ensure that a reasonable number of copies of any document or report supplied to members of the Council for consideration at a meeting of the Council are available for inspection by members of the public at the principal office of the Council or at the meeting is **suspended**.~~

- ~~b. the CEO (or a person nominated in writing by the chief executive officer) will ensure that any document or report supplied to members of the Council for consideration at a meeting of the Council is available for inspection by members of the public—~~
- ~~i. in the case of a document or report supplied to members of the Council before the meeting—on a website determined by the CEO as soon as practicable after the time when the document or report is supplied to members of the Council; or~~
- ~~ii. in the case of a document or report supplied to members of the Council at the meeting—on a website determined by the CEO as soon as practicable after the time when the document or report is supplied to members of the Council.~~

### 2.2.2 Meetings (including excluding the public)

~~Subject to the matters discussed below regarding Notice 1,~~ Council and Committee meetings are open to the public and attendance is encouraged, except where Council or a Committee believes it is lawful and necessary to exclude the public from the meeting i.e. the need for confidentiality outweighs the general principle of open decision making.

The public may consider participation through the public forums or deputations in accordance with Council's Code of Practice for Meeting Procedures.

Council or a Committee will only discuss matters in confidence when it is considered necessary to do so, and may order that the public be excluded in specific circumstances. Any consideration of the use of the confidentiality provisions to exclude the public from the discussion of a particular matter at a meeting will require the identification of one or more of the grounds listed within section 90(3) of the Act.

Before a Council or Committee meeting orders that the public be excluded, the meeting must resolve that way. If this occurs then the Presiding Member will convey this to the public (and the grounds on which this will occur) and the public must leave the meeting. The Council or Committee can by inclusion within the resolution permit a particular person or persons to remain in the meeting.

Where a person provides information to Council and requests that it be kept confidential the Council is not able to comply with this request unless the matter is one that falls within the ambit of section 90(3) of the Act. If this is the case, Council will then be in a position to consider the request on its merits.

#### **Notice No 1**

~~Notice No 1 provides that a Council meeting will be taken to be conducted in a place open to the public even if 1 or more Council members participate in the meeting by electronic means provided that—~~

- ~~a. the CEO (or a person nominated in writing by the CEO) makes available to the public a live stream of the meeting on a website determined by the CEO and ensures that members of the public can hear the discussion between all Council members present at the meeting via the live stream; or~~
- ~~b. if the CEO (or a person nominated in writing by the CEO) has taken reasonable steps to make available a live stream of the meeting but is unable to make available a live stream of the~~

meeting, the CEO (or a person nominated in writing by the CEO) makes available to the public a recording of the meeting as soon as practicable after the meeting on a website determined by the CEO and ensures that members of the public can hear the discussion between all Council members present at the meeting via the recording.

If the CEO (or a person nominated in writing by the CEO) has taken reasonable steps to make available to the public a live stream of the meeting or, (if unable to make available a live stream of the meeting) a recording of the meeting but is unable to comply the CEO (or a person nominated in writing by the CEO) must publish on a website determined by the CEO the steps taken to comply.

**Notice No 1** provides that the Council or council committee must disconnect any live stream or recording of a meeting for the period that the meeting is closed to the public pursuant to an order made under section 90(2).

When an order has been made it is an offence for a person to remain in the room. It is lawful for a member of SAPOL to use reasonable force to remove the person from the room if they fail to leave upon request of the Presiding Member.

Further, Notice 1 provides that it is also an offence for person who, knowing that an order is in force under section 90(2), to connect to a meeting of the Council or Council committee by electronic means, or fail to disconnect from a meeting of the Council or Council committee.

Once the confidential matter has concluded, the public are then permitted to re-enter or re-connect to the meeting. The decision of the meeting in relation to this matter will be made publicly known unless Council has resolved to retain some or all of the documentation in confidence.

It is necessary for the meeting to undertake the formal determination process for each matter to be considered in confidence and to resolve to exclude the public.

The Council or Committee, where practical, will consider matters to be dealt with in confidence after all other items have been considered.

Notice No 1 provides that a Council meeting will be taken to be conducted in a place open to the public even if 1 or more Council members participate in the meeting by electronic means provided that—

- a. the CEO (or a person nominated in writing by the CEO) makes available to the public a live stream of the meeting on a website determined by the CEO and ensures that members of the public can hear the discussion between all Council members present at the meeting via the live stream; or
- b. if the CEO (or a person nominated in writing by the CEO) has taken reasonable steps to make available a live stream of the meeting but is unable to make available a live stream of the meeting, the CEO (or a person nominated in writing by the CEO) makes available to the public a recording of the meeting as soon as practicable after the meeting on a website determined by the CEO and ensures that members of the public can hear the discussion between all Council members present at the meeting via the recording.



~~If the CEO (or a person nominated in writing by the CEO) has taken reasonable steps to make available to the public a live stream of the meeting or, (if unable to make available a live stream of the meeting) a recording of the meeting but is unable to comply the CEO (or a person nominated in writing by the CEO) must publish on a website determined by the chief executive officer the steps taken to comply and the requirement will be suspended.~~

### 2.2.3 Minutes

Minutes of a Council or Committee meeting must be publicly available on Council's website within five days after the meeting. This excludes any resolutions where a confidential retention order has been made. If a decision to exclude the public is taken, Council or a Committee is required to record in the Minutes the making of the order and the grounds on which the resolution was made in the Minutes. This will also apply to any order to keep an associated document confidential in accordance with section 91(7) of the Act. These minutes must be available for a minimum period of one (1) month.

### 2.2.4 Confidential Retention Orders

Council or a Committee will only make an order that a document associated with a discussion from which the public are excluded will remain confidential if it is considered proper and necessary. A resolution to this effect will be carried by the meeting, immediately after considering the confidential item which will include the grounds for confidentiality and the duration of the order or circumstances in which the order will cease to apply or when the order must be reviewed. When retaining documents as confidential, the retention period will be kept as short as is necessary.

Each item must be addressed separately and assessed against section 90(3) and section 91(7) of the Act. The Council or Committee can delegate the power to revoke an order made under section 91(7) of the Act and this can be included in the retention order, including any conditions associated with this delegation.

Documents will not be made available for public inspection while a confidential order under section 91(7) remains in place.

The CEO will maintain a register of the confidential retention orders and released confidential documents. This register will be published on Council's website. Released documents are available on Council's website.

A review of retention orders and confidential documents will ideally be conducted twice a year (once a year at a minimum) to ensure that items are released to the public in accordance with the resolutions of Council, including detailing where an extension of a confidential retention order is required. The objective is that the information is to be made publicly available at the earliest opportunity.

### 2.2.5 Audio or Visual Recordings

Visual or Audio recordings are not to be taken outside of that prescribed in the Code of Practice for ~~Council and Committee~~ Meeting Procedures, which will also determine access to this information.

### 2.2.6 Reporting

Council will include in its Annual Report, a listing of the use of sections 90(2) and 91(7) of the Act by Council and Council committees as required by schedule 4 of the Act, and the *Local Government (General) Regulations 2013*.

### 2.3 Information and Briefing Sessions

Council will hold and publish information about information and briefing sessions in accordance with section 90A of the *Local Government Act 1999* and regulation 8AB of the *Local Government (General) Regulations 2013*. Information and briefing sessions may either be open to the public or closed to the public in accordance with the legislation.

Absent a specific decision of the Council or CEO to the contrary, documents presented to any information or briefing sessions are not publicly available and documents presented to information or briefing sessions that are closed to the public are confidential.

Members of the Council or Committee may participate in an information or briefing session by electronic means (which may be as a result of restrictions on physical attendance on site). Council may make available to the public a live stream of any electronic information or briefing session. Where an information or briefing session must be conducted in a place open to the public and physical attendance on site is not permitted, Council will make available to the public a live stream of the session on Council's website, so that members of the public can hear the discussions between all persons participating in the information or briefing session. This requirement will not apply to any part of the electronic information or briefing session that has been closed to the public.

### 2.4 Public Access to Documents

[The Local Government Act requires Councils to make available a large number of documents. Many of these are set out in Schedule 5, with other requirements contained in other sections of the Local Government Act.](#)

[Schedule 5 documents must be published on a website determined by the CEO. Councils must also, upon request, provide a person with a printed copy of any document referred to in Schedule 5. Provision of printed copies of a document may require payment of a fee \(if any\) set by Council \(see Council's \[Fees and eCharges Register\]\(#\) for any relevant fee\).](#)

[Requests to access Council and Council Committee documents that are not otherwise publicly available, can be made under the Freedom of Information Act 1991. Inquiries in relation to the process for seeking access to documents held by Council can be located on Council's public website under Freedom of Information.](#)

### 2.4.5 Grievance Procedure

Should a person be aggrieved about public access to either a meeting or a document then a request, in writing, can be lodged for consideration under Council's Internal Review of Council Decisions Policy.

A member of the public is also entitled to lodge a complaint with the South Australian Ombudsman if he or she has been aggrieved by a decision of Council to exclude the public from a meeting or has otherwise been prevented access to Council documents.

### 3. DEFINITIONS

For the purposes of this Code the following definitions apply:

#### Act

Local Government Act 1999

#### Agenda

As defined in the Act 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

#### Clear Days

Means the number of calendar days between the giving of the Notice and the meeting. This is determined by excluding the day on which the Notice is given and the day of the meeting e.g. if Notice is given on a Friday for a following Tuesday meeting, then the Clear Days are the intervening Saturday, Sunday and Monday.

#### Code

Code of Practice - Access to Council Meetings and Documents

#### Committee

Refers to key (section 41) Council Committees established under the Local Government Act 1999.

#### Connect

Means able to hear and/or see the meeting, including via a live stream or recording of the meeting

#### Disconnect

Means remove the connection so as to be unable to hear and see the meeting

#### Electronic Means

Includes a telephone, computer or other device used for communication.

#### Live Stream

Means the transmission of audio and/or video from a meeting at the time that the meeting is occurring;

#### Minutes

A written record of the proceedings at every meeting of the Council or a Council committee.

#### Notice of a Meeting (Notice)

Pursuant to the Act in the case of an ordinary meeting or Council committee meeting, the CEO must give each member of the Council notice of the meeting at least three Clear Days before the date of the meeting. In the case of a special meeting or a special Council committee meeting, the CEO must give each member of Council notice of the meeting at least four hours before the commencement of the meeting. A Notice of a Meeting of the Council must be in writing, set out the date, time and place of the meeting, be signed by the CEO and contain or be accompanied by the

Agenda for the meeting. For Council committee meetings, the Notice is not required to be signed by the CEO.

#### Personal Affairs

As defined in section 90(9) of the Act, being a person's financial affairs, criminal records, marital or other personal relationships, personal qualities, attributes or health status, or that person's employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person, but does not include the Personal Affairs of a body corporate.

#### Presiding Member

Under the Local Government (Procedure of Meetings) Regulations 2013, this means the person who is the Presiding Member of a council or council committee (as the case may be) and includes any person who is presiding at a particular meeting.

#### SAPOL

South Australia Police.

## 4. LEGISLATIVE FRAMEWORK

The following legislation applies to this Code:

#### Freedom of Information Act 1991

Schedule 1, Section 9(1) & (2) of this Act specifies certain documents that are exempt and not exempt from disclosure to the public.

#### Local Government Act 1999

Sections 83 and 84 of the Act details the public notice requirements for Council meetings.

Section 90 of the Act provides a general duty for Council and Committee meetings to be conducted in a place open to the public.

Section 90A of the Act sets out the requirements for information or briefing sessions.

Section 91 of the Act provides for confidential documents and the release of and minutes relating to.

Section 92 of the Act requires a council to prepare and adopt a code of practice relating to the principles, policies and procedures that council will apply for the purposes of the operation of Parts 3 & 4 of the Act.

#### Local Government (General) Regulations 2013

Regulation 35 outlines the requirement for reporting in the Annual Report for Confidential Documents.

### Other references:

Council's documents including:

- a. [Code of Practice for Meeting Procedures](#)

- b. Community Engagement (Public Consultation) Policy
- c. Fees and Charges Register
- d. Internal Review of Council Decisions Policy
- e. Petitions Management Policy
- f. Public Forum and Deputation Guidelines.

This Code is based on a model code developed by the Local Government Association.

## 5. STRATEGIC PLAN/POLICY

### 5.1 Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:

Objective	Comments
Community	
<i>People can have a say in decisions that affect them and the key decisions of the Council</i>	This Code provides opportunity for the Community to participate in Council and Committee meetings and have the opportunity to speak on matters that may affect them.

## 6. 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.

## Status Report on Governance and Policy Committee Resolutions 25 JULY 2022



*Note: This report is provided as information only. Actions relating to confidential minutes may not be included in the Status Report.*

*Note: This report will be presented on a monthly basis, to the first meeting each month.*

### Pending Actions

Nil

### Completed Actions

Minute No.	Meeting Date	Officer	Subject	Completed
162	29/03/2022	Gustafson, Catherine	Elected Member Training and Development Policy	12/04/2022
D22/24910				
05 Apr 2022 10:31am Gustafson, Catherine				
Report prepared for Council meeting 12/4/2022				

Minute No.	Meeting Date	Officer	Subject	Completed
159	29/03/2022	Gustafson, Catherine	Council's Corporate Publications Policy	12/04/2022
D22/24910				
05 Apr 2022 10:31am Gustafson, Catherine				
Report prepared for Council meeting 12/4/2022				

Minute No.	Meeting Date	Officer	Subject	Completed
160	29/03/2022	Gustafson, Catherine	Community Wastewater Management System and Recycled Water Customer Hardship Policy	12/04/2022
D22/24910				
05 Apr 2022 10:30am Gustafson, Catherine				
Adopted by GPC on 29/3/2022				

Minute No.	Meeting Date	Officer	Subject	Completed
161	29/03/2022	Gustafson, Catherine	Telecommunications Infrastructure Policy	12/04/2022
D22/24910				
05 Apr 2022 10:30am Gustafson, Catherine				
Adopted by GPC on 29/3/2022				