



Tree Management Appeals Sub Committee

- Terms of Reference -

Endorsed by Council: 22 February 2021 (0852/2021)
Amended 27 September 2021 (1098/2021)

Review Date: November 2022

1. Preamble

- 1.1 Maintenance of the landscape and trees is an area that attracts a high level of customer enquiries and requests for service to Council, in particular, requests for maintenance and removal of Council owned trees adjacent to private properties.
- 1.2 The Tree Management Appeals Sub Committee (TMASC) has been formed to ensure issues related to the maintenance and removal of street trees and trees that are in a reserve, immediately adjacent to private properties, are dealt with consistently across the City.

2. Purpose

- 2.1 The purpose of the TMASC is to:
 - provide an avenue of appeal for persons who's request in relation to tree management and in particular specific tree removal has been refused by Council administration,
 - give consideration to the Tree Management Policy and the Tree Removal Procedure of Council,
 - provide advice on replacement tree types where a tree is approved for removal by it or the Council Assessment Panel (CAP),
 - exercise delegated authority to make decisions in relation to tree management appeals, with the exception of an appeal involving a tree classified as a 'Regulated or Significant Tree' in accordance with the *Planning, Development and Infrastructure Act 2016*, and
 - make recommendations to Council for the lodgement, if appropriate, of a Development Application to the Development Control Unit and subsequently CAP, in cases where an appeal involves a tree classified as a 'Regulated or Significant Tree' in accordance with the *Planning, Development and Infrastructure Act 2016*.
- 2.2 The TMASC will adopt a risk management focus in its considerations, delivery and recommendations. The advice to Council will reflect both the risk and opportunities of the issue to enable Council to act as an informed and responsible decision maker representing the interests of the community.



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3. *Procedure for Matters to be Heard by TMASC*

- 3.1 Before an appeal is heard by the TMASC the following process must be followed:
- an on-site meeting is convened with relevant staff, the person requesting to appeal the administration decision and affected stakeholders (such as but not limited to the property resident/tenant/owner), and Ward Councillors to establish an understanding of the site and relevant issues,
 - where relevant, consultation will occur with the tenant/owner of the property adjacent to the tree, when the request for removal has been submitted by a nearby resident,
 - where the request for removal of a tree is from a tenant, it will be determined that the owner of the property agrees with removal of the tree and supports the appeal of the decision,
 - where a tree removal request has been refused and the applicant, aggrieved by the decision, requests a review of the decision by the TMASC, staff will prepare a report to TMASC
 - where a request for appeal is to be submitted to the TMASC, the relevant Ward Councillors will be provided an opportunity to make representations to the TMASC when the matter is considered, and
 - where a request for appeal is to be submitted to the TMASC, the resident or property owner may nominate a representative for them to attend and advocate on their behalf at a meeting of the TMASC; this may be, subject to their agreement, a Ward Councillor, the Deputy Mayor or the Mayor.
- 3.2 TMASC has the ability to waive the removal fee for verge trees to concession card holders. *(added via Resolution 1237/2022 of 28/02/2022)*

4. *Status and Term of the TMASC*

- 4.1 The TMASC is established under section 41 of the *Local Government Act 1999* as a sub committee reporting to the Urban Services Committee (USC) for the purpose of making decisions under delegated authority and providing advice to Council, as described in the Purpose above.
- 4.2 This TMASC will exist for the term of the Council.



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- 4.3 The TMASC may provide advice and make a recommendation to Council via USC to lodge a Development Application for the removal of a Regulated or Significant Tree in alignment with the *Planning, Development and Infrastructure Act 2016*.

5. Meeting Frequency and Location

- 5.1 The TMASC will meet as required to assess tree management appeals.
- 5.2 Meetings of the TMASC will be held in the Committee Rooms, 34 Church Street, Salisbury.
- 5.3 In accordance with section 87 of the *Local Government Act 1999*, a minimum of three clear days' notice of an ordinary meeting will be provided to members of the TMASC.
- 5.4 In the event that Monday is a public holiday, the meeting will convene on the Tuesday of the same week.
- 5.5 Public notice of meetings will be given through publication of the annual meeting schedule on the City of Salisbury website. A copy of the Notice of Meeting and TMASC Agenda will also be displayed at 34 Church Street, Salisbury.
- 5.6 Members of the public are able to attend all meetings of the TMASC, unless prohibited by resolution of the TMASC under the confidentiality provisions of section 90 of the *Local Government Act 1999*.

6. Membership

- 6.1 The membership of the TMASC will comprise four (4) Elected Members as nominated by Council.
- 6.2 All members must attend meetings and where unable to do so, must provide an apology prior to the meeting. Where possible, advice of an apology should be provided direct to the Chair of the TMASC.
- 6.3 Proxy membership is not permitted under the Act.



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- 6.4 Ward Councillors are invited to attend for matters to be considered that are in their ward and may request to address the TMASC on the matter, but are not voting members.
- 6.5 Members of the TMASC must comply with the conduct and conflict of interest provisions of the *Local Government Act 1999*. In particular, sections 62 (general duties), 63 (code of conduct) and 73-74 (conflict of interest, members to disclose interests) must be adhered to.
- 6.6 Members of the administration, including but not limited to the General Manager City Development and General Manager City Infrastructure, who are required to attend meetings of the TMASC will do so in an advisory capacity only.

7. *Chairman and Deputy Chairman*

- 7.1 The appointment of a Chairman will be made by the Council for a term determined by the Council.
- 7.2 The Deputy Chairman will be appointed at the first meeting of the TMASC for a term determined by the TMASC.

8. *Voting Rights*

- 8.1 All members have equal voting rights.
- 8.2 A question arising for a decision will be decided by a majority of votes cast by all members present.
- 8.3 Each member must vote on a question arising for a decision unless a conflict of interest is declared where the member is excused from the vote.
- 8.3 The Chairman has a deliberative vote, but does not, in the event of an equality of votes have a casting vote.
- 8.5 An appeal will only be upheld where there is a majority vote to do so by the TMASC. Where the vote is tied the appeal is dismissed and the original decision of Council staff will stand.
- 8.6 The ability of a resident or property owner to seek review of a decision of Council in accordance with section 270 of the *Local Government Act 1999* is not affected by any decision of the TMASC.



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9. Meeting Procedures, Minutes and Documents

- 9.1 All meetings of the TMASC will be held in accordance with the:
- *Local Government Act 1999,*
 - *Local Government (Procedures at Meetings) Regulations 2013,*
 - *the City of Salisbury Code of Practice for Meeting Procedures and*
 - *City of Salisbury Code of Practice for Access to Meetings and Documents.*
- 9.2 Minutes will be kept of the proceedings at each TMASC meeting. Members of Council will be provided with a copy of all minutes of the proceedings of the TMASC within five days after a meeting.
- 9.3 Members of the public have access to all documents relating to the TMASC unless prohibited by resolution of the TMASC under the confidentiality provisions of section 91 of the *Local Government Act 1999*.

10. Quorum

- 10.1 A quorum shall be determined by dividing the total number of members of the TMASC in office by two (ignoring any fractions) and adding one. For a committee comprising 5 members, the quorum is 3 (that is, 5 divided by 2 = 2.5 (ignoring any fractions) = 2 + 1).
- 10.2 Elected Members who are suspended from office and those granted a leave of absence under Section 55A of the *Local Government Act 1999*, are not to be counted in the total number of Members of the Council when calculating the prescribed number of Elected Members that constitutes a quorum.

11. Reporting Requirements

- 11.1 This TMASC reports to the Urban Services Committee (USC).
- 11.2 The TMASC shall make whatever recommendations to the USC it deems appropriate on any area within its Terms of Reference where in its view action or improvement is needed.
- 11.3 Recommendations made by the TMASC will be referred to the next scheduled meeting of the USC, and through presentation of recommendations to Council for final resolution.



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12. Review Process

- 12.1 A review of the TMASC will be bi-annually.