



## **AGENDA**

**FOR RESOURCES AND GOVERNANCE COMMITTEE MEETING TO BE HELD  
ON**

**17 JULY 2017 AT CONCLUSION OF BUDGET AND FINANCE COMMITTEE**

**IN COMMITTEE ROOM 1, 12 JAMES STREET, SALISBURY**

### **MEMBERS**

Cr S Bedford (Chairman)  
Mayor G Aldridge (ex officio)  
Cr D Balaza  
Cr B Brug  
Cr D Bryant  
Cr L Caruso  
Cr R Cook (Deputy Chairman)  
Cr D Pilkington  
Cr D Proleta

### **REQUIRED STAFF**

General Manager Business Excellence, Mr C Mansueto  
General Manager City Development, Mr T Sutcliffe  
Manager Governance, Ms T Norman  
Manager Communications and Customer Relations, Mr M Bennington

### **APOLOGIES**

An apology has been received from Cr D Bryant.

### **LEAVE OF ABSENCE**

### **PRESENTATION OF MINUTES**

Presentation of the Minutes of the Resources and Governance Committee Meeting held on 19 June 2017.

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**REPORTS**

*Administration*

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*Corporate Governance*

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**OTHER BUSINESS**

**CLOSE**



**MINUTES OF RESOURCES AND GOVERNANCE COMMITTEE MEETING HELD IN  
COMMITTEE ROOM 1, 12 JAMES STREET, SALISBURY ON**

**19 JUNE 2017**

**MEMBERS PRESENT**

Mayor G Aldridge (ex officio)  
Cr D Balaza  
Cr B Brug  
Cr D Bryant  
Cr D Proleta

**STAFF**

General Manager Business Excellence, Mr C Mansueto  
General Manager City Development, Mr T Sutcliffe  
Manager Governance, Ms T Norman  
Manager Communications and Customer Relations, Mr M Bennington

The meeting commenced at 7:42 pm.

The Manager Governance welcomed the members, staff and the gallery to the meeting, noted that both the Chairman and Deputy Chairman were absent and invited members to appoint a member to the position of Chairman for this meeting.

**Appointment of Chairperson for Resources and Governance Committee  
Meeting of 19 June 2017**

Moved Cr D Bryant  
Seconded Cr D Proleta

That, in the absence of the Chair and Deputy Chair, Mayor Gillian Aldridge be appointed as Chair for the Resources and Governance Committee meeting of 19 June 2017.

**CARRIED**

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## **APOLOGIES**

Apologies were received from Cr S Bedford, Cr L Caruso, Cr R Cook and Cr D Pilkington.

## **LEAVE OF ABSENCE**

Nil

## **PRESENTATION OF MINUTES**

Moved Cr D Bryant  
Seconded Cr D Proleta

The Minutes of the Resources and Governance Committee Meeting held on 15 May 2017, be taken and read as confirmed.

**CARRIED**

Moved Cr D Bryant  
Seconded Cr D Proleta

The Minutes of the Confidential Resources and Governance Committee Meeting held on 15 May 2017, be taken and read as confirmed.

**CARRIED**

## **REPORTS**

### *Administration*

#### **3.0.1 Future Reports for the Resources and Governance Committee**

Moved Cr D Proleta  
Seconded Cr B Brug

1. The information be received.

**CARRIED**

**3.2.1 Development Assessment Panel changes arising from  
Implementation of Planning, Development and Infrastructure Act**

Moved Cr B Brug  
Seconded Cr D Proleta

1. That, subject to acceptance by the existing independent members of an offer of extension of term, the term of the existing independent members of the Development Assessment Panel be extended until May 2019 and transitioned to the new Council Assessment Panel under the *Planning, Development and Infrastructure Act 2016*.
2. A further report be presented to Council on the appointment of an Elected Member to the Panel, a procedure for appointing additional members, deputy members and acting presiding member, together with other changes to enable the transition the new Council Assessment Panel.
3. A further report be presented to Council on the option of a Regional Assessment Panel canvassing the pros and cons of such an option for Council's consideration.

**CARRIED**

### 3.3.1 Proposal to Amend the Australian Road Rules to enable parking on Council verges

Moved Cr D Proleta

Seconded Cr B Brug

1. The information be received.
2. A response to the LGA be prepared and submitted advising that Council supports the proposed amendment under Section 63(2) of the *Road Traffic (Miscellaneous) Regulations 2014*, to include Australian Road Rule 197 enabling each Council to exempt this provision as required in areas that Council deems suitable and enable the development of standards for the application of any exemptions to ARR 197, subject to the following considerations:
  - 2.1. Standards to include but not be limited to:

Approximately 50% of the left hand side of the vehicle can be driven onto the verge provided that:

    - The tyres are not placed on a footpath, unless the footpath is immediately adjacent to the kerb and there is more than 1 metre of clear space available for pedestrian access.
    - If there isn't a footpath then there must be at least 1 metre of clear space available for pedestrian access.
    - Residents can only park this way directly in front of their own property or with the permission of the property owner.
    - The vehicles must be facing in the direction of travel.
    - The exemption does not apply to commercial or heavy vehicles.
    - The property owner/resident and or vehicle owner/driver is liable for any damage to the verge and will be responsible for repairs.
  - 2.2 Standards to acknowledge that some locations are not suitable for parking in this manner due to visibility, other safety concerns for road users or pedestrians, and the presence of verge infrastructure and as such this may result in this guide not being applicable and the property owner/resident will be advised accordingly.
  - 2.3. Consideration being given in the standards to accommodation of cyclists and pedestrians on footpaths adjacent to verges on which parking is permitted.
3. The Local Government Association be advised that Council does not support the proposed amendment to Australian Road Rule 197 allowing verge parking on all Council roads without any limitations.

**CARRIED**

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*External Relations*

**3.4.1 Nominations Sought for the Premier's Climate Change Council**

Moved Cr D Balaza  
Seconded Cr D Proleta

1. The information be received.
2. No nomination be made as an LGA member on the Premier's Climate Change Council.

**CARRIED**

**3.4.2 Nominations Sought for the Stormwater Management Authority**

Moved Cr D Balaza  
Seconded Cr D Proleta

1. Cr David Bryant be nominated as a Local Government Member on the Stormwater Management Authority.

*Cr D Bryant declared a material conflict of interest on the basis of being nominated. Cr Bryant left the meeting at 7.54 pm.*

The meeting lapsed for lack of quorum at 7.54 pm.

The matter was referred to Council for decision.

*Cr D Bryant returned to the meeting at 7.55 pm.*

**3.4.3 Nominations Sought for the State Bushfire Coordination Committee**

Moved Cr D Balaza  
Seconded Cr D Bryant

1. The information be received.
2. Cr Shiralee Reardon be nominated to the State Bushfire Coordination Committee.

**CARRIED**

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*Corporate Governance*

**3.6.1 Review of Verge Development by Residents Policy**

Moved Cr D Bryant  
Seconded Cr D Proleta

1. The Information be received.
2. The Verge Development by Residents Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.1, 19/06/2017), be endorsed.

**CARRIED**

**3.6.2 Review of Sports Club Directional Signage on Council Reserves Policy**

Moved Cr D Proleta  
Seconded Cr D Bryant

1. The Information be received
2. The Sports Club Directional Signage on Council Reserves Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.2, 19/06/2017), be endorsed.

**CARRIED**

**3.6.3 Review of Salisbury Water Flow Restrictions Policy for Residential Customers**

Moved Cr D Bryant  
Seconded Cr D Proleta

1. The information be received
2. The Salisbury Water Flow Restrictions Policy for Residential Customers as set out in Attachment 1 to this report be endorsed.

**CARRIED**

**3.6.4 Review of Undergrounding of Power Cables Policy**

Moved Cr D Bryant  
Seconded Cr D Proleta

1. The information be received.
2. The Undergrounding of Power Cables Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.4, 19/06/2017), be endorsed.

**CARRIED**



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### 3.6.5 Review of Local Government Act Order Making Policy

Moved Cr B Brug  
Seconded Cr D Proleta

1. The Information be received.
2. The Draft Local Government Act Order Making Policy as set out in Attachment 1 to this report, (Item No. 3.6.5 Resources and Governance Committee, 19/06/2017), be endorsed.

**CARRIED**

### 3.6.6 Summary Report for Attendance at Training and Development Activity - Cr Woodman

Moved Cr D Bryant  
Seconded Cr D Proleta

1. The information be received.

**CARRIED**

### 3.6.7 Australia Day Council of South Australia - Election of Board Members

*Cr D Balaza declared a material conflict of interest on the basis of being a candidate and left the meeting at 7.59 pm.*

The meeting lapsed for want of a quorum at 7.59 pm.

The item was referred to Council for decision

#### **Recommendation**

1. The City of Salisbury vote for the following three Board Members in the election of the Australia Day Council of South Australia Inc.:
  - 
  - 
  -

*Cr D Balaza returned to the meeting at 8.01 pm.*

**3.6.8 Variations to Delegations**

Moved Cr D Bryant  
 Seconded Cr D Proleta

1. Having conducted a review of Delegations in accordance with Section 44(6) of the *Local Government Act 1999*, the Council hereby revokes its previous delegations to the Chief Executive Officer, effective from 30 June 2017 of those powers and functions under the following:
  - 1.1 *Dog and Cat Management Act 1995*
2. In exercise of the power contained in Section 44 of the *Local Government Act 1999* the powers and functions under the following Acts contained in the proposed Instruments of Delegation forming attachments to this report (Attachments 2 and 3, Item No. 3.6.8, Resources and Governance Committee, 19/06/2017), are hereby delegated from 1 July 2017 to the person occupying the office of Chief Executive Officer, subject to the conditions and / or limitations indicated herein or in the Schedule of Conditions contained in the proposed Instruments of Delegation as follows:
  - 2.1 *Dog and Cat Management Act 1995*
    - Entire Instrument – Attachment 2
  - 2.2 *Planning, Development and Infrastructure Act 2016*
    - Entire Instrument – Attachment 3
3. Such powers and functions may be further delegated by the Chief Executive Officer as the Chief Executive Officer sees fit and in accordance with the relevant legislation unless otherwise indicated in the conditions and/or limitations specified in the Delegations Register.

**CARRIED**

**OTHER BUSINESS**

Nil

The meeting closed at 8.01 pm.

CHAIRMAN.....

DATE.....

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<b>ITEM</b>	3.0.1
	<b>RESOURCES AND GOVERNANCE COMMITTEE</b>
<b>DATE</b>	17 July 2017
<b>HEADING</b>	Future Reports for the Resources and Governance Committee
<b>AUTHOR</b>	Michelle Woods, Projects Officer Governance, CEO and Governance
<b>CITY PLAN LINKS</b>	4.3 Have robust processes that support consistent service delivery and informed decision making.
<b>SUMMARY</b>	This item details reports to be presented to the Resources and Governance Committee as a result of a previous Council resolution. If reports have been deferred to a subsequent month, this will be indicated, along with a reason for the deferral.

**RECOMMENDATION**

1. The information be received.

**ATTACHMENTS**

There are no attachments to this report.

**1. BACKGROUND**

- 1.1 Historically, a list of resolutions requiring a future report to Council has been presented to each committee for noting.

**2. CONSULTATION / COMMUNICATION**

- 2.1 Internal
  - 2.1.1 Report authors and General Managers.
- 2.2 External
  - 2.2.1 Nil.

### 3. REPORT

3.1 The following table outlines the reports to be presented to the Resources and Governance Committee as a result of a Council resolution:

Meeting Item	Heading and Resolution	Officer
22/06/2015 3.3.2	<p><b>Amendments to the Dog and Cat Management Act</b></p> <p>3. Council note that staff will review the need for a cat by-law 12 months after the implementation of the proposed Bill and provide a further report to Council.</p> <p><b>Due:</b> July 2017  <b>Deferred to:</b> July 2019  <b>Reason:</b> The Dog and Cat Management Act amendments predominantly relating to administrative improvements are being introduced on 1 July 2017. The compulsory controls relating to cats are being implemented on 1 July 2018. As a result the impact of these legislative measures on cats which include compulsory de-sexing and microchipping will not be known until after at least 12 months of operation. Staff will be reviewing the Dog and Cat Management Plan in 2017/18 where community consultation will occur on dogs and cats and pertinent issues will be identified to assist on future cat management strategies.</p>	John Darzanos
28/09/2015 3.6.1	<p><b>Review of Provision of Elected Member IT Equipment</b></p> <p>2. A revised Elected Member Allowances, Facilities and Support Policy be brought back to Council in July 2018.</p> <p><b>Due:</b> July 2018</p>	Joy Rowett
27/06/2016 3.6.2	<p><b>Mobile Food Van Policy</b></p> <p>3. Once the State Government position in relation to Food Trucks has been finalised a report be prepared setting out a Mobile Food Van Policy for endorsement.</p> <p><b>Due:</b> July 2017  <b>Deferred to:</b> December 2017  <b>Reason:</b> State Government are still considering this policy with no timeframe provided.</p>	Tim Starr
30/01/2017 3.6.4	<p><b>Review of the Procurement Policy to incorporate use of Australian Made steel for Council construction projects</b></p> <p>2. A review of the implications of the adoption of a variation to the Procurement Policy to use to use Australian made steel as set out in Part 1 (Item 3.6.4, Resources and Governance Committee, 23/01/2017) be undertaken in 12 months.</p> <p><b>Due:</b> January 2018</p>	Matt Harris

24/04/2017 OB1-R&G	<b>Signage to Improve Dog Management at St Kilda</b> 1. That staff investigate signage options to improve dog management at St Kilda and provide a report to Council for consideration. <b>Due:</b> August 2017	Brad Scholefield
26/06/2017 3.2.1	<b>Development Assessment Panel changes arising from Implementation of Planning, Development and Infrastructure Act</b> 2. A further report be presented to Council on the appointment of an Elected Member to the Panel, a procedure for appointing additional members, deputy members and acting presiding member, together with other changes to enable the transition the new Council Assessment Panel. <b>Due:</b> August 2017	Chris Zafiropolous
26/06/2017 3.2.1	<b>Development Assessment Panel changes arising from Implementation of Planning, Development and Infrastructure Act</b> 3. A further report be presented to Council on the option of a Regional Assessment Panel canvassing the pros and cons of such an option for Council's consideration. <b>Due:</b> August 2017	Chris Zafiropolous
26/06/2017 3.3.1	<b>Proposal to Amend the Australian Road Rules to enable parking on Council verges</b> 4. A report be presented to Council on the impact of the changes set out in parts 1 to 3 (Item 3.3.1, Proposal to Amend the Australian Road Rules to enable parking on Council Verges, Council meeting 26/06/2017) to existing Council's policies. <b>Due:</b> September 2017	John Darzanos
26/06/2017 3.6.1	<b>Review of Verge Development by Residents Policy</b> 3. That further information be brought back regarding the treatment of edible plant verge development within the existing Verge Development by Residents Policy. <b>Due:</b> September 2017	Craig Johansen

#### 4. CONCLUSION / PROPOSAL

- 4.1 Future reports for the Resources and Governance Committee have been reviewed and are presented to Council for noting.

#### CO-ORDINATION

Officer: EXEC GROUP GMCID  
Date: 10/07/2017 03/07/2017



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<b>ITEM</b>	3.6.1
	<b>RESOURCES AND GOVERNANCE COMMITTEE</b>
<b>DATE</b>	17 July 2017
<b>HEADING</b>	Review of Footpath Policy
<b>AUTHOR</b>	James Corletto, Team Leader Strategic Asset Management, City Infrastructure
<b>CITY PLAN LINKS</b>	3.3 Be a connected city where all people have opportunities to participate. 3.4 Be a proud, accessible and welcoming community. 4.4 Embed long term thinking, planning and innovation across the organisation.
<b>SUMMARY</b>	This report presents the Footpath Policy to Council for consideration and endorsement. The Policy has been reviewed by the Policy Owner and has had minor changes made.

## **RECOMMENDATION**

1. The information be received.
2. The Footpath Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.1, 17/07/2017) be endorsed.

## **ATTACHMENTS**

This document should be read in conjunction with the following attachments:

1. Footpath Policy

### **1. BACKGROUND**

- 1.1 Council's Policy Framework provides for Council Policies to be reviewed within 12 months of a general election and thereafter every two years.
- 1.2 This Policy was last reviewed and endorsed by Council in March 2015 and is now due again for review.

### **2. CONSULTATION / COMMUNICATION**

- 2.1 Internal
  - 2.1.1 Consultation with the Manager Technical Services has occurred as to the continuing relevance of the Policy and any changes that may be required.
- 2.2 External
  - 2.2.1 Nil

### **3. REPORT**

- 3.1 The Footpath Policy has been reviewed by the Policy Owner. Minor changes have been made to reflect recent changes in legislation to allow cyclists to ride on footpaths and provide increased footpath widths to increase safety for pedestrians.
- 3.2 Section E5 vi of the Policy has been added to include provision of footpaths on cycling routes where bike lanes terminate.
- 3.3 Section E6a has been amended to increase the preferred footpath width on arterial and collector roads from 1.5 to 1.8 metres.
- 3.4 Section E6b of the Policy has been amended to increase the preferred width of footpaths on local roads from 1.2 to 1.5 metres.

### **4. CONCLUSION / PROPOSAL**

- 4.1 The Footpath Policy as contained within Attachment 1 is recommended to Council for endorsement.

### **CO-ORDINATION**

Officer: Executive Group  
Date: 10/07/2017





<b>Policy Type:</b>	<b>Policy</b>		
<b>Approved By:</b>	Council	<b>Decision No:</b>	2011/262 2013/1875
<b>Approval Date:</b>	26 August 2013	<b>Last Reapproval Date:</b>	23 March 2015
<b>Review Date:</b>	23 March 2017	<b>Internal Reference No.:</b>	
<b>Department:</b>	City Infrastructure	<b>Division:</b>	Civil and Waste
<b>Function:</b>	14 - Infrastructure	<b>Responsible Officer:</b>	Manager, Civil and Waste

#### A – PREAMBLE

The City of Salisbury is committed to providing a safe, accessible and well maintained footpath network linked by accessible kerb ramps. Council’s footpath policy provides guidelines for the location and type of footpaths to be constructed or reconstructed.

#### B – SCOPE

This policy applies to all built-up areas within the City of Salisbury.

#### C – POLICY PURPOSE/OBJECTIVES

This Policy sets out guidelines for provision of footpaths constructed with council allocated and developer contributor funds.

#### D – DEFINITIONS

1. **Footpath:** A path for pedestrians [and cyclists](#).
2. **Built-up:** An area consisting of mainly housing, commercial or industry, with little open space. Refers to the general area east of Port Wakefield Road.
3. **Accessible:** The ability to be accessed by all, and more specifically those with disabilities. In particular this requires that footpath provision includes pairs of accessible kerb ramps for access by pedestrians using various mobility aids and by people with children in prams or strollers. It means that the footpath network complies with the *Disability Discrimination Act 1992* Section 23 ‘Access to Premises’.

**E - POLICY STATEMENT**

1. Council supports walking as a preferred method of travel within the City to benefit the health and wellbeing of our residents and to minimise the impact of transportation on the environment.
2. Council aims to provide a footpath network that is convenient, safe, and easy to use.
3. As a general principle, Council will renew/repair failing infrastructure before providing new infrastructure.
4. The nominal minimum level of service for new footpath is [for a 1,200 mm](#) wide, block paved (concrete pavers) and constructed to at least industry practice.
5. Where physically practical, Council will provide a footpath on:
  - a. Both sides of:
    - i. roads near schools, retirement villages, sports grounds and other public facilities being significant pedestrian generators; and roads with carriageways wider than 12 m or with central medians.
    - ii. roads abutting commercial or shopping areas
    - iii. bus routes;
    - iv. local roads classified as primary collectors;
    - v. [arterial roads;](#)
    - vi. [cycling routes where bike lanes terminate](#)
  - b. One side of:
    - i. through local roads, and on the same side of the road as street lighting where possible, and
    - ii. cul de sacs greater than 60 m long to the centre of the court bowl and 30 metres long to the centre of the court bowl for any new development.
6. Footpaths shall be constructed generally as follows:
  - a. on arterial and primary collector roads [a minimum footpath width of 1.5 metres wide with a preferred width consideration of 1.8 metres where verge width permits, it is likely that pedestrians using wheelchairs will frequently require passing space with other pedestrians using a wheelchair or pram.](#)
  - b. on local roads [a minimum footpath width 1.2 metres wide with a preferred width of 1.5 metres where verge width permits.](#)
7. Prior to installation of footpaths residents will be consulted by mail and given the opportunity to express their views. Residents will be advised of the consultation outcome and where objections exceed two thirds of residents directly fronting the proposed footpath, the construction will not proceed. Where feedback received from residents via mail is divided, a street meeting take place and Elected Members be invited to attend.
8. Council may defer the construction of a footpath on this street where the footpath:
  - a. does not form an essential link in the network;
  - b. has no persons with disabilities or mobility issues using the street as a pedestrian link, and
  - c. has greater than a two-thirds majority of residents directly fronting the proposed footpath, not supporting the construction of a footpath,

9. Priority
  - a. New footpaths shall be provided by priority based on:
    - i. the needs of people with disabilities or mobility issues.
    - ii. proximity to high pedestrian generators, such as Schools, Aged Care facilities, Shopping Centres, Bus Routes and Reserves
    - iii. importance within the footpath network;
    - iv. existing usage; and its potential usage;
10. New paths or trails in reserves shall be considered based upon the connection to the existing network and potential usage.
11. The implementation of the footpath construction program is dependent on the budget available as guided by the appropriate Asset Management Plan(s).
12. Resident requests for new footpaths/kerb ramps not included in the annual Footpath Construction Program will be considered for inclusion if:
  - a. the request meets the priority criteria listed in item 9 above, and
  - b. Funding is available

To ensure the highest priorities are considered in a consistent manner, such requests will be collated over a three month period and reviewed by the Footpath Request Evaluation Team quarterly.

#### F – LEGISLATION

1. *Local Government Act, SA 1999*
2. *Disability Discrimination Act, 1992*

#### G – REFERENCES

1. City of Salisbury Transportation Asset Management Plan
2. AS 1428 “Design for Access and Mobility”

#### Document Control

<b>Document ID</b>	Footpath Policy
<b>Prepared by</b>	James Corletto
<b>Release</b>	<b>3.00</b>
<b>Document Status</b>	Approved
<b>Date Printed</b>	<b>11/07/2017 10:07/2017</b>



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<b>ITEM</b>	3.6.2
	<b>RESOURCES AND GOVERNANCE COMMITTEE</b>
<b>DATE</b>	17 July 2017
<b>HEADING</b>	Review of the Code of Practice - Access to Meetings and Documents
<b>AUTHOR</b>	Joy Rowett, Governance Coordinator, CEO and Governance
<b>CITY PLAN LINKS</b>	4.3 Have robust processes that support consistent service delivery and informed decision making.
<b>SUMMARY</b>	This report presents an update to the Code of Practice – Access to Meetings and Associated Documents, which incorporates a number of corrections, inclusions and modifications to the Code. All changes have been marked with revisions for ease of identification. Council is asked to approve the Draft Code of Practice – Access to Meetings and Associated Documents for public consultation in accordance with Section 92(5) of the Local Government Act 1999.

#### **RECOMMENDATION**

1. The information be received.
2. The Draft Code of Practice – Access to Meetings and Associated Documents (as set out in Attachment 2, Resources and Governance Committee, Item No. 3.6.2, 17/07/2017) be approved for public consultation in accordance with Section 95(2) of the *Local Government Act 1999*.

#### **ATTACHMENTS**

This document should be read in conjunction with the following attachments:

1. Part 3 Local Government Act 1999 – Showing track changes of amendments made as a result of the Local Government (Accountability and Governance) Amendment Act 2015
2. Draft Code of Practice - Access to Meetings and Associated

#### **1. BACKGROUND**

- 1.1 The City of Salisbury has adopted a Code of Practice – Access to Meetings and Associated Documents (the Code) which provides information to the community on the City of Salisbury’s commitment to providing access to meetings and associated documents of Council, as prescribed by the *Local Government Act 1999* (the Act).
- 1.2 There are times when, in the broader community interest, it is necessary to restrict public access to discussions or documents and this Code summarises the legal position in relation to such access.

- 1.3 The Code was last reviewed in 2011 following the periodic election in 2011. Review of the Code following the 2014 periodic election was deferred pending introduction of amendments to the Local Government Act 1999.

## 2. REPORT

- 2.1 The *Local Government (Accountability and Governance) Amendment Act 2015* (the Amendment Act) received assent on 17 November 2015 and commenced on 31 March 2016.
- 2.2 The Amendment Act amends several provisions of the Act which in turn affect the content and focus of various policies of the City of Salisbury, including the Code.
- 2.3 In particular, the Amendment Act amended several provisions of Part 3 of the *Local Government Act 1999* (Attachment 1) including:
  - 2.3.1 additional grounds that should not be considered as a reason to go into confidence and which build on existing grounds (incorporated into clause F4);
  - 2.3.2 more information to be recorded in the minutes when a confidentiality order is made (incorporated into clause F5.d);
  - 2.3.3 Council to adopt a policy in relation to the holding of informal gatherings (these provisions are incorporated into clause F6);
- 2.4 Consequently the Code (Attachment 2) has been reviewed to ensure its consistency with the provisions of the Amendment Act. Track changes have been used throughout the Policy to highlight the changes proposed.
- 2.5 Minor typographical and administrative amendments have also been made to the Code in addition to amendments to bring the Code into line with the Local Government Association's Model Code of Practice for Access to Council and Committee Meetings and Documents and Confidentiality Guidelines.
- 2.6 In addition, at its March 2016 meeting Council adopted its Informal Gatherings Policy in accordance with the requirements of the *Local Government (Accountability and Governance) Amendment Act 2015*. This Policy was then reviewed in November 2016 to ensure the new requirements under the *Local Government (General) Variation Regulations 2016* were reflected within the City of Salisbury policy.
- 2.7 Pursuant to Section 95(2) of the Act, the Code must be made available for public consultation prior to its adoption by Council. Section 50(4) of the Act determines that public consultation must occur for a minimum of 21 days. Therefore it is proposed that public consultation be undertaken for a 21 day period, from 2 August to 23 August 2017.
- 2.8 This consultation will take the form of a public notice posted in the Northern Messenger as well as in the Civic Centre inviting interested person to make submissions within the period stated in the notice in accordance with Council's Public Consultation Policy.
- 2.9 In addition, copies of the Code will be made available for inspection or purchase at the James Street Civic Centre.

- 2.10 Following the consultation period a further report will be presented to Council outlining any submissions received.
- 2.11 The right to address Council or a Committee of Council by way of deputation in support of any submission may be granted at the discretion of the Mayor or Presiding Member, unless otherwise prescribed in the relevant legislation.

**3. CONCLUSION / PROPOSAL**

- 3.1 The Code of Practice – Access to Meetings and Documents has been updated to reflect legislative and other necessary changes to support application of effective procedures with respect to providing access to meetings and documents of Council.
- 3.2 Council is asked to consider the proposed updates and approve the Draft Code of Practice – Access to Meetings and Documents for public consultation for a period of not less than 21 days.

**CO-ORDINATION**

Officer: Executive Group  
Date: 10/07/2017





ATTACHMENT 1

PART 3 LOCAL GOVERNMENT ACT 1999 – SHOWING TRACK CHANGES OF AMENDMENTS AS A RESULT OF THE *LOCAL GOVERNMENT (ACCOUNTABILITY AND GOVERNANCE) AMENDMENT ACT 2015*

**Part 3—Public access to council and committee meetings**

**90—Meetings to be held in public except in special circumstances**

- (1) Subject to this section, a meeting of a council or council committee must be conducted in a place open to the public.
- (2) A council or council committee may order that the public be excluded from attendance at a meeting to the extent (and only to the extent) that the council or council committee considers it to be necessary and appropriate to act in a meeting closed to the public in order to receive, discuss or consider in confidence any information or matter listed in subsection (3) (after taking into account any relevant consideration under that subsection).
- (3) The following information and matters are listed for the purposes of subsection (2):
  - (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
  - (b) information the disclosure of which—
    - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
    - (ii) would, on balance, be contrary to the public interest;
  - (c) information the disclosure of which would reveal a trade secret;
  - (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
    - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
    - (ii) would, on balance, be contrary to the public interest;
  - (e) matters affecting the security of the council, members or employees of the council, or council property, or the safety of any person;
  - (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
  - (g) matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
  - (h) legal advice;
  - (i) information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council;
  - (j) information the disclosure of which—

ATTACHMENT 1

PART 3 LOCAL GOVERNMENT ACT 1999 – SHOWING TRACK CHANGES OF AMENDMENTS AS A RESULT OF THE LOCAL GOVERNMENT (ACCOUNTABILITY AND GOVERNANCE) AMENDMENT ACT 2015

- (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
    - (ii) would, on balance, be contrary to the public interest;
  - (k) tenders for the supply of goods, the provision of services or the carrying out of works;
  - (m) information relating to a proposed amendment to a Development Plan under the *Development Act 1993* before a Development Plan Amendment proposal relating to the amendment is released for public consultation under that Act;
  - (n) information relevant to the review of a determination of a council under the *Freedom of Information Act 1991*.
- (4) In considering whether an order should be made under subsection (2), it is irrelevant that discussion of a matter in public may—
  - (a) cause embarrassment to the council or council committee concerned, or to members or employees of the council; or
  - (b) cause a loss of confidence in the council or council committee; or
  - (c) involve discussions of a matter that is controversial within the council area; or
  - (d) make the council susceptible to adverse criticism.
- (5) A person who, knowing that an order is in force under subsection (2), enters or remains in a room in which a meeting of the council or council committee is being held is guilty of an offence and liable to a penalty not exceeding \$500 and if such a person fails to leave the room on request it is lawful for an employee of the council or a member of the police force to use reasonable force to remove him or her from the room.
- (6) Subsection (5) does not apply to—
  - (a) a member of the council or the council committee; or
  - (b) any other person permitted to be in the room by the council or the council committee.
- (7) If an order is made under subsection (2), a note must be made in the minutes of the making of the order ~~and of the grounds on which it was made~~ and specifying—
  - (a) the grounds on which the order was made; and
  - (b) the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made; and
  - (c) if relevant, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest.
- (7a) A council committee meeting will be taken to be conducted in a place open to the public for the purposes of this section even if 1 or more committee members participate in the meeting by telephone or other electronic means in accordance with any procedures prescribed by the regulations or determined by the council under section 89 (provided that members of the public can hear the discussion between all committee members and subject to the qualification that a council may direct a committee not to use telephone or other electronic means for the purposes of its meetings).

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- (8) The duty to hold a meeting of a council or council committee at a place open to the public does not in itself make unlawful informal gatherings or discussion involving—
- (a) members of the council or council committee; or
  - (b) members of the council or council committee and staff,

provided that a matter which would ordinarily form part of the agenda for a formal meeting of a council or council committee is not dealt with in such a way as to obtain, or effectively obtain, a decision on the matter outside a formally constituted meeting of the council or council committee.

**Examples—**

The following are examples of informal gatherings or discussions that might be held under subsection (8):

- (a) planning sessions associated with the development of policies or strategies;
  - (b) briefing or training sessions;
  - (c) workshops;
  - (d) social gatherings to encourage informal communication between members or between members and staff.
- (8a) In addition, an informal gathering or discussion under subsection (8) may only be held if—
- (a) the council has adopted a policy on the holding of informal gatherings or discussions; and
  - (b) the informal gathering or discussion complies with the policy.
- (8b) A policy adopted under subsection (8a) must comply with any requirements prescribed by the regulations, and the regulations may (for example) include requirements that the policy provide for—
- (a) the imposition of limitations on the holding of informal gatherings or discussions; and
  - (b) procedures for approval of informal gatherings or discussions; and
  - (c) the capacity of the council to impose conditions on an approval.
- (8c) A council may from time to time alter its policy, or substitute a new policy.
- (8d) The council must ensure that a copy of the policy under subsection (8a) is available for inspection (without charge) at the principal office of the council during ordinary office hours and on a website determined by the chief executive officer.
- (8e) A person is entitled, on payment of a fee fixed by the council, to a copy of a policy under subsection (8a).
- (9) In this section—
- personal affairs** of a person includes—
- (a) that person's—
    - (i) financial affairs;
    - (ii) criminal records;
    - (iii) marital or other personal relationships;

ATTACHMENT 1

PART 3 LOCAL GOVERNMENT ACT 1999 – SHOWING TRACK CHANGES OF AMENDMENTS AS A RESULT OF THE *LOCAL GOVERNMENT (ACCOUNTABILITY AND GOVERNANCE) AMENDMENT ACT 2015*

(iv) personal qualities, attributes or health status;

(b) 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.



## Code of Practice for Access to Meetings and Associated Documents

Policy Type:	Policy		
Approved By:	Council	Decision No:	635, 2011/521
Approval Date:	22 October 2007	Most Recent Approval:	<del>25 July 2011</del> July 2017
Review Date:	<del>25 July 2013</del> July 2019	Internal Reference No.:	
Department:	CEO and Governance	Division:	CEO and Governance
Function:	9 - Governance	Responsible Officer:	Manager Governance

### A - PREAMBLE

1. In fulfilling the role of an effective Council that is responsive to the needs of the community and which operates within the legal framework as prescribed by the *Local Government Act 1999*, the City of Salisbury is fully committed to open and transparent government. It recognises, however, on some occasions it may be necessary, in the broader community interest, to restrict public access to discussions or documents. This only happens after due consideration is given to the matter by the Chief Executive Officer.
2. This Code sets out the commitment of the City of Salisbury to provide public access to meetings of Council and associated documents, and outlines the policies and procedures the City of Salisbury will use the provisions in accordance with relevant provisions of the *Local Government Act 1999* to restrict public access. The Code includes:
  - 2.1 Information on the relevant provisions of the *Local Government Act 1999*;
  - 2.2 Council's principles on public access and participation;
  - 2.3 The process that will be adopted when public access is restricted; and
  - 2.4 Grievance procedures if a member of the public believes that the Council has unreasonably restricted public access on a particular matter.

### B - SCOPE

1. This Code of Practice applies to all meetings of Council and associated documents.

### C - CODE PURPOSE/OBJECTIVES

1. This Code of Practice clearly states the City of Salisbury's commitment to transparent decision making and provides the community with certainty in relation to access to meetings and associated documents.

### D - DEFINITIONS

1. 'Associated documents' refers to agendas, reports, attachments and minutes of meetings of Council.
2. 'Clear Days' means the days between the:

- Posting of a notice of a meeting and the day the meeting is held excluding both the day on which the notice is given and the day of the meeting, e.g. when notices are given on a Thursday for a following Monday meeting, the clear days are Friday, Saturday and Sunday; or
- Holding of a meeting and the day the minutes are released excluding the day of the meeting and the day the minutes are released.

**4.3.** 'Meetings of Council' refers to sub-committee, committee and council meetings held in accordance with Chapter 6 (Meetings) of the *Local Government Act 1999*.

#### E – LOCAL GOVERNMENT ACT PROVISIONS

1. Chapter 6 of the *Local Government Act 1999* sets out the arrangements for Meetings of Council. These meetings are to be held in public except where special circumstances exist as prescribed in the Act and a Council or Committee orders that the public be excluded.
2. There are very strict circumstances in which a discussion or document considered in a meeting of Council can be kept confidential. These provisions are covered in the following sections of the Act:
  - 83(5) Council and 87(10) Committee – the Chief Executive may, after consultation with the principal member of Council, or in the case of a Committee the presiding member, indicate on a document or report provided to the members of the Council or the Committee that the matter may, if the Council or Committee so determines, be considered in confidence. The Chief Executive is required to specify at the same time the basis on which such an order can be made.
  - 90(2) and (3) - circumstances where Council may order that the public can be excluded from attendance at a meeting, or part of it, to enable a matter to be considered in confidence. Appendix 1 provides a list of matters which fall into this category.
  - 91(7) – circumstances where a document considered in confidence can be ordered to remain confidential.
  - 91(8) – circumstances where a Council must **not** order that a document remain confidential.
  - 91(9) – the Council or Committee must specify the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order will be reviewed. The power to revoke an order can also be delegated to an employee of Council.
  - 92 – requires the Council to prepare and adopt a Code of Practice relating to access to meetings and documents. Prior to adoption, alteration or substitution the proposed Code (or changes) must be available for inspection and purchase. Council is also required to follow the relevant steps set out in its public consultation policy.
  - 94 – provides that the Ombudsman may, on receipt of a complaint, investigate the use of these provisions.

#### F - POLICY STATEMENT

1. The City of Salisbury will:
  - 1.1 Act in the best interest of the community, with honesty, integrity and transparency;
  - 1.2 Represent the interests of the Salisbury community through responsible, open and accessible government;
  - 1.3 Ensure confidentiality provisions will only be utilised when considered absolutely necessary;

- 1.4 Ensure that in all cases, the information be made publicly available at the earliest possible opportunity.
2. The City of Salisbury will conduct all formal meetings of Council in public and will provide public access to all documents considered at those meetings, except where the meeting of Council is clearly satisfied that the need for confidentiality outweighs the principle of open decision making.

At the City of Salisbury the following procedures and practices will apply when considering whether to restrict public access to a Council or Council Committee meeting or a report presented to these meetings:

- 2.1 Where the Chief Executive Officer believes that a matter should be considered in confidence, the nature of the matter and the reasons why it should be considered in confidence will be clearly stated on the agenda for the meeting which is made available to the public.
- 2.2 Information of a confidential nature will be placed in attachments to reports, where possible, so that the report itself can be made available to the public.
- 2.3 Recommendations and resolutions will be framed, where possible, so that public access to the minutes of these meetings does not need to be restricted.
- 2.4 Public access will be restricted for the minimum period of time necessary to allow the matter to be resolved.
- 2.5 Council reports on assessment of tenders for the provision of goods and services to Council will become public as soon as the contract documentation is finalised.
- 2.6 Council and Committee items declared confidential will be recorded in a *Register of Confidential Items* listing the following information:
- title of the item
  - date of the Council or Committee meeting;
  - reason for holding the matter confidential and the legislative provision to which it applies;
  - dated of release from confidentiality
- and the *Register* will be made available for public inspection.
- 2.7 Council will consider objections by a member of the public that a matter is subject to restricted access and will advise that person of their right to seek a review by the Ombudsman if they disagree with a decision to restrict access.

### 3. Agenda for Council and Committee Meetings

One of the main opportunities for the community to obtain information about the business of Council is from the agendas for Council and Committee meetings and associated reports and attachments. Therefore public access to Council agenda papers is encouraged. In the City of Salisbury the following procedures apply to encourage public access:

- At least three clear days before an *ordinary* meeting of Council *or Council Committee meeting*, a copy of the Agenda for the meeting will be placed on public display in the foyer of the **Municipal Council** Offices (the Agenda is defined as being a list of items of business to be considered).
- A copy of associated reports, *attachments and recommendations prepared by Council Officers* to be considered *by the Members* will be available for public inspection at the same time and place as the Agenda. Members of the public may request a copy of a particular report or reports for a small fee to cover the costs of duplication.
- *Business papers* *Copies of agendas, reports, attachments and minutes* of all meetings of Council will be published on Council's Internet site – [www.salisbury.sa.gov.au](http://www.salisbury.sa.gov.au).

- If, in the opinion of the Chief Executive Officer, a matter is likely to be required to be dealt with in confidence, that matter will be noted on the Agenda together with the reason that it may need to be discussed in confidence. The reason must fall under within the provisions of Section 90(3) of the *Local Government Act 1999* (as outlined in Attachment 1 to this Policy).
- Where a report has been considered in confidence and restricted from public access, the report will be reviewed internally twice a year being January and July to determine its confidential status for possible release to the public.

#### **3.4. Public Access to Meetings**

At In the City of Salisbury, public access to meetings of Council and Council Committees is guaranteed always available, except where indicated on the Agenda that a matter may need to be discussed in confidence as outlined above. Examples where the public may be excluded include:

- The Council is intending to bid at auction to acquire land and would not want others involved such as the vendor to have prior knowledge of what the Council was setting as an upper limit to bid at the auction, as to do so would prejudice the position of the Council and disadvantage the community [s.90(3)(b)].
- Matters affecting the security of the Council, members or employees of the Council, or Council property, or the safety of any person. [s.90(3)(c)]

The public will only be excluded when considered absolutely necessary and the need for confidentiality outweighs the principle of open decision making.

Section 90(4) of the Act stipulates that Council and Council Committees cannot make an order, that the public be excluded from a meeting only on the basis that discussion of a matter in public may:

- Cause embarrassment to Council, the Committee, Elected Members, independent members of a Committee or employees of the City of Salisbury; or
- Cause a loss of confidence in Council; or
- Involve discussion of a matter that is controversial within the Council area; or
- Make the Council susceptible to adverse criticism.

#### **4.5. Process to Exclude the Public**

The meeting will adopt the following procedure and practices before deciding to exclude the public:

- a. Before a meeting excludes the public from discussion of a particular matter presented in confidence in the Agenda, the meeting will formally determine if this is necessary and that it falls within the relevant provisions of Section 90 (3) of the Act as a matter justifying treatment in confidence. The meeting will then pass an appropriate resolution to exclude the public.
- b. The debate on whether or not the public should be excluded will be held in public.
- c. The public will only be excluded after a motion to that effect is carried.
- d. If a resolution to exclude the public is made, the grounds for this will be communicated to the public present at the meeting and will be recorded in the Minutes together with the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made and if relevant, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest.
- e. If this occurs then the public must leave the room in which the meeting is being held.
- f. For the convenience of the public present at a meeting, where it is resolved to consider a matter in confidence, the matter is to be placed last on the agenda and deferred until all other business has been dealt with. This avoids the need to ask the public to leave the room and wait until the matter is concluded and then allow them to return to the meeting room with the possibility of the same process being repeated for a subsequent matter.



- g. Once debate on the matter is concluded, the meeting will then consider if it is necessary to make an order that some or all documents associated with the matter remains confidential. In determining this, the meeting will have regard to the provisions of the Act and this Code. If an order is made the meeting will also determine for what period, or for what circumstances (e.g settlement of land division) the document or portion of the document will remain restricted from public access.
- h. Once discussion on that particular matter is concluded, the public are then permitted to re-enter the meeting. If there is a further matter to be considered in confidence it will be necessary to again undertake the formal determination process and to resolve to exclude the public as outlined above.

#### **6. Informal Gatherings**

Designated informal Gatherings or discussions mean an event organised and conducted by or on behalf of the council or chief executive officer to which members of the council or council committee (as the case may be) have been invited and that involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the council or council committee.

Section 90(8) of the Local Government Act 1999 allows designated informal gatherings or discussions to be held provided that the discussion does not lead to a decision, or effectively obtain a decision, on a matter that would ordinarily be dealt with at a Council meeting.

A decision to close an informal gathering or discussion will consider the nature of information to be discussed including:

- a. whether the content to be discussed falls within the confidentiality provisions of s.90(3) of the Local Government Act 1999;
- b. whether the information to be presented constitutes a Training and Development Activity;
- c. a request from an external party involved in the presentation of information that the Informal Gathering not be open to the public.

Where the Chief Executive Officer determines the need for private consideration of information to be discussed at the informal gathering or discussion outweighs the need to provide access to members of the public the informal gathering or discussion will be closed. The reason for this decision will be briefly stated on the City of Salisbury website.

#### **7. Person Requesting a Matter to be kept Confidential**

Where a person provides information to the Council and requests that it be kept confidential the Council is not able to even consider this request unless the matter is one that falls within the provisions of Section 90(2) of the Act. If this is the case, Council will then be in a position to consider the request on its relative merits in accordance with the Act and this Code.

#### **5.8. Public Access to Documents**

The City of Salisbury will only order that a document associated with a discussion from which the public are excluded will remain confidential, if it is considered absolutely necessary in the broader community interest. Council can only make orders in relation to documents that were considered in confidence under section 90(3) of the *Local Government Act 1999*.

Any inquiries in relation to the process for seeking access to documents held by the Council should be directed to the Freedom of Information Officer on 8406 8222 or email: [city@salisbury.sa.gov.au](mailto:city@salisbury.sa.gov.au).

#### **6.9. Reviewing and Revoking Confidential Orders**

Where keeping a document confidential is considered absolutely necessary, a resolution to this effect is required, which shall 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.

It is the general practice of this Council to review all confidential orders twice a year (refer paragraph 2.). Depending on the nature of the material, the confidentiality order may be lifted at the time of review, thereby providing access by the public, or another review period may be set.

Council may delegate to an officer or employee the authority to revoke a confidential order, and if relevant, may add conditions as to when the delegation can be used.

Example

Council resolved to bid \$100,000 at auction for a parcel of land. An order that this discussion be confidential could be made in accordance with section 90(3)(b). Council resolved that the document containing information on the value of land remain confidential in accordance with section 91(7). Council could delegate that the CEO have the authority to make this information public following the completion of the acquisition of the land in accordance with section 91(9)(c).

#### 9. Person Requesting a Matter to be Kept Confidential

Where a person provides information to the Council and requests that it be kept confidential, the Council is not able to even consider the request unless the matter is one that falls within section 90(3). If this is the case, Council will then be in a position to consider the request on its relative merits.

#### 10. Accountability and Reporting to the Community

Council ~~has undertaken to will~~ report on an annual basis in the Annual Report on ~~the-its~~ use of all confidentiality provisions. The report will include the following information:

- Number of occasions each of the provisions of section 90(3) and section 91(7) were utilised.
- Number of occasions each of the provisions of section 90(3) and section 91(7) were utilised, expressed as a percentage of total agenda items considered.
- An indication of any particular issues that contributed to the use of confidentiality provisions on more than one occasion e.g. a proposal to acquire parcel of land x was considered on 4 separate occasions.
- An indication of the categories of section 90(3) that were used most frequently.
- Number of occasions that information originally declared confidential has subsequently been made publicly available.

The Annual Report is available on Council's website – [www.salisbury.sa.gov.au](http://www.salisbury.sa.gov.au). Copies can be provided on request.

#### 11. Grievances

In the first instance, any questions or complaints about the use of confidentiality provisions should be raised with the Manager Governance ~~and Customer Service~~. The question or complaint should be made in writing (wherever possible) to ensure all grievances are considered and acted upon in a proper manner. Questions or complaints should be marked to the attention of the Manager Governance ~~and Customer Service~~, City of Salisbury, PO Box 8, Salisbury SA 5108 or via email [city@salisbury.sa.gov.au](mailto:city@salisbury.sa.gov.au).

Initially information on the application of confidential provisions and full explanation of the details and circumstances relating to the complaint will be provided. It is anticipated that most, if not all, questions or complaints will be resolved through this process.

Should this not resolve the matter, a formal application for internal review of this decision can be made. This will be dealt with in accordance with Council's Internal Review of Council Decisions Process.

If ~~you-a person~~ remains aggrieved about an action of Council, ~~you-they~~ have the option of seeking to have the Ombudsman review the matter ~~as an independent umpire~~. It is hoped that all grievances can be resolved with Council, but if not, Council ~~Staff's Contact Officer~~ can provide details of how to contact the Ombudsman if required.

#### 12. Review

The City of Salisbury is required, by the *Local Government Act 1999*, to review this code within 12 months of a periodic election. Council has the ability to review this code at any time if considered necessary.

In accordance with the City of Salisbury's Public Consultation Policy, when being reviewed, a notice will be published in a paper circulating the area and inviting interested persons to make submissions to Council on the code within a period being at least twenty one (21) days from the date of the notice.

### 13. Further Information

The Contact Officer for further information at the City of Salisbury is the Manager Governance ~~and Customer Service~~, or in their absence the Governance Coordinator, telephone 8406 8222 or email: [city@salisbury.sa.gov.au](mailto:city@salisbury.sa.gov.au).

## G - LEGISLATION

1. Section 92 of the Local Government Act 1999
2. Chapter 6 of the Local Government Act 1999

## H - REFERENCES

1. Internal Review of Council Decisions - *Section 270 Local Government Act 1999*
2. City of Salisbury Code of Practice for Meeting Procedures
3. Local Government Association - Model Code of Practice for Access to Council and Committee Meetings and Documents
1. Local Government Association - Confidentiality Guidelines: How to Apply Section 90 of the *Local Government Act 1999*

### Document Control

Document ID	Code of Practice for Access to Meetings and Associated Documents
Prepared by	<del>Michelle Woods</del> <u>Joy Rowett</u>
Release	<del>21.0</del>
Document Status	<del>Approved</del> <u>Draft</u>
Issue Date	

## APPENDIX 1

### MATTERS FOR WHICH COUNCIL, OR A COMMITTEE, CAN ORDER THAT THE PUBLIC BE EXCLUDED

Council, or a committee may order that the public be excluded in the following circumstances:

- a. information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- b. information the disclosure of which-
  - (i) could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the Council; and
  - (ii) would, on balance, be contrary to the public interest;
- c. information the disclosure of which would reveal a trade secret;
- d. commercial information of a confidential nature (not being a trade secret) the disclosure of which-
  - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
  - (ii) would, on balance, be contrary to the public interest.
- e. matters affecting the security of the council, members or employees of the council, or council property, or the safety of any person;
- f. information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- g. matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- h. legal advice;
- i. information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council;
- j. information the disclosure of which-
  - (i) would divulge information provided on a confidential basis by or to a Minister of the crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
  - (ii) would, on balance, be contrary to the public interest;
- k. tenders for supply of goods, the provision of services or the carrying out of works;
- m. information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Plan Amendment Report relating to the amendment is released for public consultation under that Act;
- n. information relevant to the review of a determination of a council under the Freedom of Information Act 1991.

The Act provides for a definition of “personal affairs” 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.

(Local Government Act 1999 – Section 90)

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<b>ITEM</b>	3.6.3
	<b>RESOURCES AND GOVERNANCE COMMITTEE</b>
<b>DATE</b>	17 July 2017
<b>HEADING</b>	Audit Committee Terms of Reference - proposal to change membership appointment term and requirement to appoint an Independent Member to the position of Chairman
<b>AUTHOR</b>	Tami Norman, Manager Governance, CEO and Governance
<b>CITY PLAN LINKS</b>	4.3 Have robust processes that support consistent service delivery and informed decision making. 4.2 Develop strong capability and commitment to continually improve Council's performance.
<b>SUMMARY</b>	This report presents a proposal to modify the Terms of Reference for the Audit Committee of Council, specifically in relation to the term of appointment of independent members and to allow Council to determine the appointment of the Chairman of the Audit Committee from all members of the committee.

#### **RECOMMENDATION**

1. The proposed changes to the Membership section of the Audit Committee Terms of Reference (as set out in Attachment 1 to this report, Item No. 3.6.3, Resources and Governance Committee, 17/07/2017) be endorsed.

#### **ATTACHMENTS**

This document should be read in conjunction with the following attachments:

1. Audit Committee Terms of Reference - proposed changes to membership section

#### **1. BACKGROUND**

- 1.1 Work is currently underway to fill an independent member position that will become vacant on the Audit Committee from September of this year. As part of that process consideration of requirements within the Audit Committee Terms of Reference has occurred, and as a consequence, a proposal to make changes to the Terms of Reference has been developed.
- 1.2 The first change relates to the term of appointment of independent members, and the second change is to remove a current obligation on Council to appoint one of the independent members to the position of Chairman of the Audit Committee.
- 1.3 The Audit Committee currently meets five times per year in February, April, July, October and November. The October meeting is dedicated to consideration of the financial statements to allow the Committee to provide the necessary assurance to Council for the preceding financial year.

## 2. REPORT

- 2.1 The Audit Committee Terms of Reference are predominantly determined by legislative requirements, either from within the *Local Government Act 1999* (section 126) or the *Local Government (Financial Management) Regulations 2011* (section 17).
- 2.2 These requirements specify that membership:
- 2.2.1 must be between three and five members,
  - 2.2.2 must include at least one person who is not a member of the council and who is determined by council to have financial experience relevant to the functions of the Audit Committee,
  - 2.2.3 may include persons who are not members of the council; and
  - 2.2.4 may not include an employee of the council.
- 2.3 Council has previously determined (amongst other things) the following requirements in addition to the legislative requirements:
- 2.3.1 Membership will consist of five members, three of whom will be independent of the Council. The other members will come from the Elected Members of Council;
  - 2.3.2 Members will be appointed for the term of council;
  - 2.3.3 The Chairman of the committee will be appointed by the council from the independent members.
- 2.4 **Membership Term**
- 2.4.1 Currently the Terms of Reference provide that all members will be appointed for the term of Council. Elections are held every four years, with the new council generally sworn in at the first council meeting of the new term in November. It is usually at the first meeting of Council that membership of standing committees, which includes the Audit Committee, is determined.
  - 2.4.2 On the basis of the Terms of Reference, as currently drafted, independent membership concludes after the October Audit Committee meeting in an election year.
  - 2.4.3 To provide a level of continuity to Council in terms of provision of assurance on matters that fall within the scope of terms of reference of the Audit Committee there would be merit in modifying the term of appointment of independent members to provide for continuation to the first meeting of the Audit Committee after an election.
  - 2.4.4 There are a number of advantages of this approach:
    - At the time the Audit Committee is reconstituted after an election (November Council Meeting) Council could endorse a process to seek to engage independent members for the proceeding term of council, with appointments to take effect from the April meeting of the Audit Committee. This would provide sufficient time to conduct a process calling for applications for external members and allow this to be reported back to Council to finalise independent member appointments. This time allows for management of the process around the December/January “festive season” and should ensure access to a suitable pool of quality applicants for council to consider.

- Extending the appointment term to the first meeting after the election provides a level of continuity to Council in terms of the assurance received from the Committee. It also provides one meeting where newly appointed Elected Members can be provided with advice/guidance from independent members who have sat on the committee for the preceding term of council.
- The proposal does not change the overall length of the appointment term, but shifts the commencement and conclusion to sit slightly after the commencement and conclusion of each term of council.

2.4.5 The term of appointment of Elected Members to the Audit Committee would remain unchanged.

2.4.6 The proposed amendment to the Audit Committee Terms of Reference to achieve this outcome is as follows (section 5.2, third dot point):

- *Currently reads:* Members will be appointed to the Audit Committee for the term of council. Members may, at the discretion of the council, be elected for subsequent terms.
- *Proposed to read:* Elected Members will be appointed to the Audit Committee for the term of Council. Independent Members will be appointed for the period commencing with the Audit Committee meeting in April of the year following a General Election and concluding with the Audit Committee meeting in February of the year following a General Election. Independent Members may, at the discretion of Council, be appointed for subsequent terms.

## 2.5 **Audit Committee Chairman**

2.5.1 The current Terms of Reference require (section 5.2, seventh dot point):

- The Chairman of the committee will be appointed by the council from the independent members.

2.5.2 There is no legislative requirement that the Chairman be drawn from independent members, rather, this is a provision that the City of Salisbury has previously determined.

2.5.3 The role of the Chairman is to facilitate the meeting, which requires a reasonable understanding of formal meeting procedures and the capacity to elicit contributions from all members of the committee.

2.5.4 The proposal to remove this dot point would not prevent an independent member from being appointed to the position, but would allow Council to determine the most appropriate person to hold the position.

2.5.5 It should be noted that as the Audit Committee is a Standing Committee of Council, appointment of an Elected Member to the position of Chairman would attract an additional allowance payment for that Elected Member.

2.5.6 Given the proposal to appoint independent members for the period concluding with the February meeting after a General Election, there may be a need for Council (or the Committee) to appoint an Acting Chairman at the February meeting, so that Council can consider all members of the Committee for the position of Chairman, with the council appointment to take effect from the April meeting of the Audit Committee.

**3. CONCLUSION / PROPOSAL**

- 3.1 Attachment A to this report shows the proposed changes to the Audit Committee Terms of Reference in marked up format.
- 3.2 The intent of the changes is to provide continuity to Audit Committee independent members across the period of a General Election, so that some transfer of knowledge can occur and to allow sufficient time for a recruitment process to occur for new independent members following a General Election.
- 3.3 The intent of the proposed change to Chairman is to afford Council the flexibility to choose the most appropriate Chairman for the Committee from all members.

**CO-ORDINATION**

Officer: Executive Group  
Date: 10/07/2017





## Audit Committee of Council

### - Terms of Reference -

Endorsed by Council: 22 February 2016

Review Date: January 2018

#### 5. Membership

- 5.1 Section 126(2) of the Act and s.17(1) of the Local Government (Financial Management) Regulations 2011, (the Regulations), state that the membership of the Audit Committee;
- May include persons who are not members of the council.
  - May not include an employee of the council (although an employee may attend if appropriate).
  - May include or be comprised of Audit Committee members from another council.
  - Must be between three and five members.
  - Must include at least one person who is not a member of the council and who is determined by the council to have financial experience relevant to the functions of the audit committee.
  - Must not include, as a member, the council's external auditor.
- 5.2 In line with the requirements of the Act and the Regulations, the Audit Committee of Council;
- Will consist of five members, three of whom will be independent of the council and City of Salisbury and will have the necessary skills, knowledge and experience (including recent, relevant financial experience), to ensure the effective discharge of the responsibilities of the committee.
  - The other members of the committee will come from the elected members of the council, they will be selected by the council and will possess the necessary understanding of the role of the committee and such skills, knowledge and experience to enable them to function effectively as a member of the committee.
  - Elected Members will be appointed to the Audit Committee for the term of council. Independent Members will be appointed for the period commencing with the Audit Committee meeting in April of the year following a General Election and concluding with the Audit Committee meeting in February of the year following a General Election. Independent Members may, at the discretion of the council, be ~~elected~~appointed for subsequent terms.
  - Independent members of the Audit Committee will be paid suitable remuneration for the provision of their services; this will be set by council and reviewed by council at the time of establishment of each new committee term.
  - All members must attend the meeting and where unable to do



## Audit Committee of Council

### - Terms of Reference -

**Endorsed by Council:** 22 February 2016

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so, must provide an apology prior to the meeting.

- Members of the committee must comply with the conduct and conflict of interest provisions of the Local Government Act. In particular, Sections 62 (general duties), 63 (code of conduct) and 73-74 (conflict of interest, members to disclose interests) must be adhered to.
- The appointment of the Chairman will be made by the Council for a term determined by the Council.
- The Deputy Chairman will be appointed by the Council for a term determined by the Council following a recommendation from the Audit Committee made at the April Committee meeting in the year following a General Election, or as required.~~The Chairman of the committee will be appointed by the council from the independent members.~~