



AGENDA

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

18 FEBRUARY 2019 AT THE CONCLUSION OF BUDGET AND FINANCE

IN COMMITTEE ROOM 1, 12 JAMES STREET, SALISBURY

MEMBERS

Cr D Proleta (Chairman)
Mayor G Aldridge (ex officio)
Cr B Brug
Cr A Duncan
Cr K Grenfell
Cr D Hood
Cr P Jensen (Deputy Chairman)
Cr J Woodman

REQUIRED STAFF

General Manager Business Excellence, Mr C Mansueto
General Manager City Development, Mr T Sutcliffe
Manager Communication and Customer Relations, Mr M Bennington
Manager Governance, Mr M Petrovski

APOLOGIES

LEAVE OF ABSENCE

PRESENTATION OF MINUTES

Presentation of the Minutes of the Resources and Governance Committee Meeting held on 21 January 2019.

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OTHER BUSINESS

CLOSE



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

21 JANUARY 2019

MEMBERS PRESENT

Cr D Proleta (Chairman)
Mayor G Aldridge (ex officio)
Cr B Brug
Cr A Duncan
Cr K Grenfell
Cr P Jensen (Deputy Chairman)
Cr J Woodman

STAFF

General Manager Business Excellence, Mr C Mansueto
A/General Manager City Development, Mr C Zafiropoulos
Manager Governance, Mr M Petrovski

The meeting commenced at 8.25pm.

The Chairman welcomed the members, staff and the gallery to the meeting.

APOLOGIES

An apology was received from Cr D Hood.

LEAVE OF ABSENCE

Nil

PRESENTATION OF MINUTES

Moved Mayor G Aldridge
Seconded Cr J Woodman

The Minutes of the Resources and Governance Committee Meeting held on 10 December 2018, be taken and read as confirmed.

CARRIED

REPORTS

Administration

3.0.1 Future Reports for the Resources and Governance Committee

Moved Cr J Woodman
Seconded Cr A Duncan

1. The information be received.

CARRIED

Development Control Administration

3.2.1 Appointment of Independent Members on the Council Assessment Panel

Cr B Brug declared a material conflict of interest on the basis of being a Council Assessment Panel member and the agenda item discussed remuneration of members. Cr Brug left the meeting at 8.26 pm.

Moved Cr A Duncan
Seconded Cr K Grenfell

1. For the purposes of the Expression of Interest process for the appointment of the members to the Salisbury Council Assessment Panel, Council endorse the draft *Council Assessment Panel Terms of Reference* as set out in Attachment 1 to this report (Resources and Governance 3.2.1, 21/01/2019), and the Terms of Reference be resubmitted to Council at a later date for further consideration and adoption.
2. The remuneration for Panel members not be increased, with the exception of the remuneration for the Elected Member on the Panel to be increased to the same level as that of an independent member.
3. A report be provided to Council in April 2019 for the appointment of Independent Members to the Council Assessment Panel.

CARRIED

Cr Brug returned to the meeting at 8.48pm.

External Relations

3.4.1 Nominations Sought for two (2) casual vacancies of the Greater Adelaide Regional Organisation of Councils (GAROC)

Mayor G Aldridge declared a material conflict of interest on the basis of being a member of GAROC. Mayor Aldridge left the meeting at 8.49pm.

Moved Cr B Brug
Seconded Cr K Grenfell

1. The information be received.

CARRIED

Mayor Aldridge returned to the meeting at 8.52pm.

Corporate Governance

3.6.1 Variations to Delegations

Moved Cr A Duncan
Seconded Cr P Jensen

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 4 February 2019 of those powers and functions under the following:
 - 1.1 *South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health (General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018*
 - Regulations 5(3), 5(6), 21(4), 21(5), 9(7), 25(6), 26(2), 33, Clauses 2(1) and 2(2) of Schedule 1 – Attachment 3
2. In exercise of the powers contained in Section 44 of the *Local Government Act 1999*, the powers and functions under the following Acts and contained in the proposed Instruments of Delegation forming attachments to this report (Attachments 2 and 3, Item No. 3.6.1, Resources and Governance Committee, 21/01/2019) are hereby delegated from 5 February 2019 to the person occupying the office of Chief Executive Officer, subject to the conditions and or limitations specified herein or in the Schedule of Conditions contained in the proposed Instruments of Delegation under the *Liquor Licensing Act 1997* and the *South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health (General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018* as follows:

Liquor Licensing Act 1997

- Sections 131(ab), 131(ad) and 131(c) – Attachment 2
South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health (General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018.
 - Regulations 5(3), 5(6), 9(7), 25(6), 26(2), Clauses 2(1) and 2(2) of Schedule 1 – 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 herein or in the Schedule of Conditions contained in the proposed Instrument of Delegation under the *Liquor Licensing Act 1997* and the *South Australian Public Health Act 2011, South Australian Public Health (Legionella) Regulations 2013, South Australian Public Health (Wastewater) Regulations 2013, South Australian Public Health (General) Regulations 2013 and South Australian Public Health (Fees) Regulations 2018.*

CARRIED

3.6.2 Review of Flag Policy

Moved Cr J Woodman
Seconded Cr A Duncan

1. The information be received.
2. The Flag Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.2, 21/01/2019), be endorsed.

CARRIED

3.6.3 Review of Protocol for Civic Events and Functions Policy

Moved Mayor G Aldridge
Seconded Cr J Woodman

1. The Information be received.
2. The Protocol for Civic Events and Functions Organised by the City of Salisbury as set out in Attachment 1 to this report (Resources and Governance 3.6.3, 21/01/2019) be endorsed, subject to the deletion of the words “as a representative of an invited guest” in Section F of the draft policy.

CARRIED

3.6.4 Review of Informal Gatherings Policy

Moved Cr K Grenfell
Seconded Cr B Brug

1. The information be received.
2. The Informal Gatherings Policy, as set out in Attachment 1 to this report (Item No. 3.6.4, Resources and Governance Committee, 21/01/2019) be endorsed.

CARRIED

3.6.5 Review of Hardship Policy for Residential Salisbury Water Customers

Moved Mayor G Aldridge
Seconded Cr B Brug

1. The information be received.
2. The Hardship Policy for Residential Salisbury Water Customers as set out in Attachment 1 to this report (Resources and Governance 3.6.5, 18/02/2019), be endorsed.

CARRIED

OTHER BUSINESS

Nil

The meeting closed at 9.08pm.

CHAIRMAN.....

DATE.....

ITEM	3.0.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Future Reports for the Resources and Governance Committee
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	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 Due:	Amendments to the Dog and Cat Management Act 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. July 2019	John Darzanos
23/04/2018 3.3.1 Due:	Parking Technology Trials 5. A further report presenting the outcomes of the trials be presented to Council at the conclusion of the trials. August 2019	John Darzanos
23/07/2018 MON2 Due:	Parking in the Salisbury City Centre 2. At the conclusion of the licence plate recognition trial, the report that will be provided to Council on the outcomes of the trial also incorporate advice on the implications of the provision of four (4) and or five (5) hour parking areas in the city centre. August 2019	John Darzanos
23/07/2018 3.6.3 Due:	Media Policy Review That consideration of the Media Policy be deferred to the next Council following the local government elections. April 2019	Michael Bennington
27/08/2018 MON7.1 Due:	Council Customer Service Charter 1. That Council review all customer service and related policies with a view of increasing the level of basic services and customer requests. March 2019	Michael Bennington
27/08/2018 MON7.1 Due:	Council Customer Service Charter 2. That Council develop a community and resident customer service charter in consultation with the local community. March 2019	Michael Bennington
26/11/2018 6.5 Due:	Council and Committee Structure 2. The terms of reference be reviewed after the first 12 months of the term of office seeking Elected Member feedback and a report be provided to the Resources and Governance Committee. December 2019	Mick Petrovski

29/01/2019	Appointment of Independent Members on the Council Assessment Panel	Chris Zafiroopoulos
3.2.1	1. For the purposes of the Expression of Interest process for the appointment of the members to the Salisbury Council Assessment Panel, Council endorse the draft <i>Council Assessment Panel Terms of Reference</i> as set out in Attachment 1 to this report (Resources and Governance 3.2.1, 21/01/2019), and the Terms of Reference be resubmitted to Council at a later date for further consideration and adoption.	
Due:	April 2019	
29/01/2019	Appointment of Independent Members on the Council Assessment Panel	Chris Zafiroopoulos
3.2.1	3. A report be provided to Council in April 2019 for the appointment of Independent Members to the Council Assessment Panel.	
Due:	April 2019	

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	A/GMCID	GMBE
Date:	11/02/2019	31/01/2019	31/01/2019

ITEM	3.3.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
PREV REFS	Resources and Governance 3.3.2 18/06/2018 Committee Council PET2 27/08/2018
HEADING	Footpath Trading Policy Review
AUTHOR	John Darzanos, Manager Environmental Health & Safety, City Development
CITY PLAN LINKS	1.2 Be the place of choice for businesses to invest and grow within South Australia, nationally and internationally. 1.3 Have a thriving business sector that supports community wellbeing, is globally oriented and creates job opportunities. 3.2 Have interesting places where people want to be.
SUMMARY	The Draft Footpath Trading Policy endorsed for consultation by Council (Resources and Governance Committee 18/06/2018 Item 3.3.1), has undergone public and targeted stakeholder consultation. This report presents the results of the consultation and the amended draft policy and fee modelling for consideration and endorsement.

RECOMMENDATION

1. The information be received.
2. The Draft Footpath Trading Policy 2019 included as Attachment 1 and the Footpath Trading Permit Fees included as Attachment 3 to this report (Resources and Governance Committee 21/01/2019 Item 3.3.1.) be endorsed and adopted by Council.
3. In accordance with Section 188(1)(e) of the Local Government Act 1999 the Footpath Trading Policy Fees (included as Attachment 3 to this report (Resources and Governance Committee 21/01/2019 Item 3.3.1.) include:
 - a. An Annual “Footpath Trading Permit Fee” of \$80 (minimum fee) or \$10 per square metre (whichever is the greatest), capped at a maximum of \$200, with a 50% reduction for a Charity/Community Group.
 - b. A “Notification Fee” of \$100 for footpath trading applications that require notification of adjacent residential premises.
 - c. An “Energy Absorbing Bollard Fee” equal to the actual costs of the required Energy Absorbing Bollards (supply and installation) multiplied by a 50% rebate.
 - d. A “Temporary Footpath Trading Permit Fee” of \$20 for events up to five (5) days, with a 50% reduction for a Charity/Community Group.

4. That Council allocate a non-discretionary budget bid at the third quarter budget review for \$70,000 expenditure and \$35,000 income, with a net cost to Council of \$35,000 to provide a funding allocation in 2018/19 for Energy Absorbing Bollards associated with footpath trading applications.

ATTACHMENTS

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

1. Draft Footpath Trading Policy - 2019
2. Draft Footpath Trading Policy - 2019 - (Tracked Changes)
3. Draft Footpath Trading Permit Fees
4. Draft Footpath Trading Policy Submissions Summary

1. BACKGROUND

- 1.1 The draft Footpath Trading Policy presented and endorsed for consultation by Council (Resources and Governance Committee 18/06/2018 Item 3.3.2) has undergone public and targeted stakeholder consultation. The consultation took place between 5 and 30 July 2018.
- 1.2 The report in June 2018 outlined and discussed key policy considerations in this review process which were highlighted in the consultation process. These include:
 - Funding for Energy Absorbing Bollards;
 - Moveable items;
 - Consultation for footpath trading areas near residential areas;
 - Smoking in footpath trading areas; and
 - Fee structures.
- 1.3 Council also received a petition relating to one business and their concerns with a recent reduction in their trading area. While the petition was received after the consultation process had closed, the issue is discussed in the report below relating to the encroachment of trading activity zones in front of adjoining premises.
- 1.4 The consideration of the key policy issues is balanced with Council's legislative responsibility for ensuring pedestrian safety and accessibility throughout shopping precincts through the provision and maintenance of a continuous accessible path of travel.

2. CONSULTATION / COMMUNICATION

2.1 External

2.1.1 The consultation process included:

- Print media (a public notice advertisement was placed in The Advertiser).
- Social media which included Facebook.
- Information on Council's web page (have your say).

- 2.1.2 Direct consultation was undertaken with all current permit holders via a direct mail out, encouraging feedback via an online form or email.
- 2.1.3 An invitation was provided to the Salisbury Business Association to review the draft policy and make a submission.

3. REPORT

- 3.1 The formal consultation process resulted in three (3) submissions, including from the Salisbury Business Association. The key comments arising from the submissions include:
 - 3.1.1 The cost of Energy Absorbing Bollards is seen as a deterrent. While the views are mixed, they generally propose that Council fund the bollards or have a cost share arrangement that minimises the upfront cost to business.
 - 3.1.2 Concern was raised with the general increase in costs. Furthermore that fees should not be revenue raising and only be increased by CPI.
 - 3.1.3 Concern was raised with option 4 (the \$100 per bollard annual fee) that has no end period and that this fee may increase over time. The suggestion is that the payback period should be fixed, suggested at five years.
 - 3.1.4 Bollards should be part of Council's streetscape program as it will encourage more footpath trading and hopefully outdoor dining venues to open over time.
 - 3.1.5 Annual costs for fixed furniture item authorisations are cost prohibitive and the preference is that these costs be incorporated in the footpath trading fees. It was noted however that moveable items are seen as a desirable option given their low cost. It should be noted that Adelaide City Council is moving to moveable items to assist with maintenance and flexibility with the use of the footpaths.
 - 3.1.6 There was no support for the proposed notification fee for any premises that may impact on residential areas. This appeared to relate to existing businesses that may in the future be affected by new residences in their precinct.
 - 3.1.7 The fee structure based on a square metre rate had mixed responses. Some support was provided if it included a minimum amount of space (the proposed fee structure includes up to 8 square metres minimum); another comment did not support this approach as it was not seen as equitable as there was limited foot traffic in their area. It was suggested that the cap should be at \$150.
- 3.2 The comments are further discussed below under the key policy considerations and a summary of the submissions is included in Attachment 4.

Funding for Energy Absorbing Bollards

- 3.3 Four (4) options were presented as part of the consultation which included:
 - 3.3.1 Full Cost Recovery Model (Option 1). The applicant pays for the full costs associated with the provision of Energy Absorbing Bollards (EAB's), where required.

- 3.3.2 Cost Share Model (Option 2). The applicant pays a proportional share of EAB's up front (suggested cost share arrangement is applicant 50%/Council 50%).
- 3.3.3 Cost Recovery Model (Option 3). The applicant pays full costs of EAB's over a fixed period of time. (Suggested 10 equal payments over a 10 year period).
- 3.3.4 EAB Council Funded Model (Option 4). The Council pays for the EABs and cost are built into the ongoing permit fee paid by the applicant. The permit fee includes the value and number of bollards provided for the respective footpath trading area. (Suggestion is \$100 x number of bollards).
- 3.4 The consultation process has revealed that the Council Funded Model (Option 4) is supported provided there is no cost recovery via the permit fee. This has obvious benefits to applicants and will encourage more footpath trading and potentially more outdoor dining venues over time. Council will however have responsibility for all the costs. It is difficult to estimate the demand for this model, but it is likely to increase demand for footpath trading areas as there is minimal cost to the trader – Council subsidises the costs significant level.
- 3.5 A totally funded model would mean that Council would need to budget for the installation of EAB's which could equate to an average cost of \$10,500 to \$14,000 for a site that requires three to four EAB's. (A recent installation of EAB's resulted in a cost of approximately \$3,500 per bollard; however the fees could vary dependent on site conditions). If demand increases (currently one or two applications per year) it could require funding of some \$50,000 to cover EAB installations for up to four or five new traders per year. It should be noted that a recent footpath trade enquiry may have required 10 EAB's resulting in a significant financial cost.
- 3.6 Once installed the EAB's would be deemed a Council asset and responsibility for maintenance and replacement would be by Council.
- 3.7 The policy allows for alternative safety barriers to be considered and fees and cost recovery can be applied for such alternative devices.
- 3.8 The Cost Share Model (Option 2) where the applicant pays a proportional share of EABs up front, provides a balanced approach reflective of the proportional benefit to the trader and to the community. The cost share model also places a level of accountability and commitment on the business owner to support and commit to their footpath trading venture and reduces the financial exposure for Council.
- 3.9 A cost share model will remove ongoing payments and reduce the need to manage the long term cost recovery process. This option requires a budget provision for the up-front funds for a proportion of the installation costs. However the costs are significantly less than that of the fully funded model, depending on the cost share proportion.
- 3.10 The Cost Share Model (Option 2) shares the financial risk and supports the principal that footpath trading is beneficial for the business and the community through space activation. While this is considered to be a balanced financial approach, it is acknowledged that it does have an up-front cost for the applicants which could be a factor for some businesses.

- 3.11 The cost share arrangement may be set at an even 50% applicant/Council proportion. Alternatively, in locations where street activation is a key objective for Council, then the cost share model could be increased in favour of Council and decreased for the applicant, for example 70% Council and 30%. This places the greater share of financial costs onto Council, however provides a benefit to the local area, the business and the property owner, providing greater opportunity to lease and encourage business investment in the key City Centre precincts.
- 3.12 This increased cost share model could be limited to the key precincts of Salisbury City Centre and Mawson Lakes City Centre precincts where:
- Street space activation is a key objective, and
 - For highly active uses such as outdoor dining.
- 3.13 To manage the financial risks on Council and ensure equitable access to EAB funding, there could be further consideration to provide a cap for each business. The cap could apply on the number of EAB's provided within the cost share model per annum, along with a cap on the total number of EAB's funded by Council per annum. This would address possible scenarios where one business may require a large number of EAB's and where the number of applications increases in one financial year.
- 3.14 Example scenarios for funding models are presented below:
- Business A*
 3 Bollards @ \$3,500 each (supply and install)
 Total Cost \$10,500
 Cost Share at 50:50 = Council \$5,250 and Business \$5,250
 Cost Share at 60:40 = Council \$6,300 and Business \$4,200
 Cost Share at 70:30 = Council \$7,350 and Business \$3,150
- Business B*
 10 Bollards @ \$3,500 each (supply and install)
 Total Cost \$35,000
 Cost Share at 50:50 = Council \$17,500 and Business \$17,500
 or
 Alternate with cap at \$10,000 per business
 Cost Share after cap = Council \$10,000 and Business \$25,000
- 3.15 A budget allocation of \$70,000 will fund approximately 20 EAB's with a cost share model of 50:50, allowing for \$35,000 income with a net cost of \$35,000.
- 3.16 If the decision to provide EAB cost share funding is supported then it is recommended that the policy and fee structures are endorsed with a commencement date of 1 July 2019. Should an immediate start date be preferred, a 3rd quarter budget review for EAB funding for a portion of the financial year will be required to fund the program as there are several businesses awaiting the outcome of the policy decision in order to make an application. The current Technical Services Design operating and capital expenditure budgets does not include provision for these costs.

- 3.17 The Cost Recovery Model (Option 3) whilst achieving the same outcome as option 2 does provide for an ongoing cost recovery process and exposes Council to financial risks in the event of a business closing and not fully paying their contributions. This option is not recommended given the uncertainty and risk for Council.
- 3.18 Full Cost Recovery Model (Option 1) has not been favoured in the feedback as this is an impediment to most businesses seeking a permit. This has been the current approach up to now in most precincts, however many of the bollards within the John Street precinct have been pre-existing and provided by Council.

Moveable or fixed furniture items

- 3.19 The feedback identified that only moveable furniture items are being used in the footpath trading areas as the costs for fixed items make it prohibitive for the traders. Moveable furniture items also enabled easy cleaning of footpaths and streets. One submission suggested that fixed items should be included in the Footpath Trading without additional fees. The Draft Policy attached to this report has not made any suggested changes to fixed items as a result of the legislated requirements for authorisations to be issued under Section 221 of the Local Government Act.

Consultation for trading areas near residential areas

- 3.20 There was concern raised with additional fees and cost to business for this process, including the potential impact on existing businesses if residential developments are established in centre precincts after a business has already been trading.
- 3.21 This concern is noted and the proposed Notification Fee of \$100 is a one-off fee only where the trading area proposes to operate outside the hours of 8am to 7pm and is within 50 metres of a residential property. This would not apply where a residential premises is established after the establishment of the trading area. This is considered to provide a reasonable balance between business and residents. It is proposed that this process be retained in the Policy. The administrative costs associated with the process and can be reviewed annually as part of the fees and charges process taking into consideration any feedback based on the application of the fee.

Smoking

- 3.22 There was no strong objection to banning alternative forms of smoking (water pipe or similar smoking device) in footpath trading areas. The ban is maintained in the Footpath Trading Policy.
- 3.23 There was no concern with maintaining some dedicated smoking areas provided there is compliance with the South Australian smoking laws. The comments suggest that there should be priority given for non-smoking dining areas when there is a conflict between two adjoining permit areas. This principle is included in the Policy.

Proposed fee structure based on a square metre rate of trading area

- 3.24 Feedback on the proposed fee structure indicates that the minimum fee should include a minimum amount of space. This is achieved by the proposed fee structure as it allows for up to 8 square metres of trading area.

- 3.25 One of the respondents suggested a cap of \$150 rather than \$200. There are few sites however affected by a \$200 cap. In approximately three locations the size of these areas exceed the average of 8-10 square metres, and allowing for up to 20 square metre sites provides for equity in the fees for sites that have access to large public spaces. It is recommended Council adopt draft fee structure released for consultation of \$80 minimum fee or \$10 per square metre whichever is greater, capped at \$200.
- 3.26 Feedback also suggested that the fees increases should only be to CPI in the future which is addressed by Council's annual review of fees and charges.

Encroachment of trading activity zone in front of adjoining premises

- 3.27 Council received a petition (PET2, 27/8/18) from one business after the consultation process had closed. The petition relates to the reduction in their footpath trading area. The footpath trading area for this business previously occupied the space in front of an adjoining business. That adjoining business applied for a trading permit to display goods for sale. The adjoining business was concerned with customer access and street visibility of their business. Their preference was that the area in front of their business, set aside as the trading activity zone, remain vacant if not utilised by them.
- 3.28 The current policy states that written consent is required from adjoining property owners/occupiers to use the trading activity zone in front of another business. The policy does not however explain the principles behind this requirement, or the process should an adjoining trader/owner not consent.
- 3.29 The use of footpaths for trading purposes should ensure that consideration is given to public safety, access, amenity, business impact, community benefit and space activation. As a result the draft policy has been amended to capture these elements and focus on principles of consultation in matters relating to businesses wishing to expand their trading areas.
- 3.30 The amendments to the policy include the following:
- Where the footpath trading permit Trading Activity Zone encroaches in front of adjoining premises, consultation will be undertaken with the adjoining property owner and or tenants.
 - The results of the consultation will be considered in the decision to issue a permit that results in the Trading Activity Zone encroaching.
 - Any change in property or business ownership will require further consultation.
 - Decisions relating to encroaching trading will give consideration to public safety, access, amenity, business impact, community benefit and space activation and may result in permits for an area for more than one party.

Minor Editorial / Clarifications

- 3.31 Additional amendments have been included in the Policy to simplify the footpath width categories, as shown in the tracked changes version of the attached draft Policy.

4. CONCLUSION / PROPOSAL

- 4.1 This amended Footpath Trading Policy is presented for Council's consideration and endorsement, along with a funding model for Energy Absorbing Bollards, where they are required. A number of funding options have been considered and the desired policy position is to balance all stakeholder interests in an equitable funding model.
- 4.2 The cost share model is presented to Council for consideration and endorsement along with the base permit fees as presented in Attachment 3.
- 4.3 As the EAB fee structure is dependent on funding, a new initiative bid will be required for the 2019/20 Budget for the capital costs associated with EAB's for Council's endorsement. A budget allocation of \$35,000 will fund approximately 20 EAB's with a cost share model of 50:50. Changes to the cost share ratio will impact on budget requirements and or funding opportunities and amounts may need to be varied.
- 4.4 The permit fee is also presented for endorsement based on the size of the Footpath Trading Area. The permit fee is proposed at \$80 (minimum fee) or \$10 per square metre of footpath trading area (whichever is the greatest) capped at \$200. The fee is an annual fee and it proposed to be reduced by 50% for charity and community groups.
- 4.5 A reduced temporary footpath trading permit fee of \$20 is proposed for events up to five (5) days, with a 50% reduction for a charity and community groups.
- 4.6 If the decision to provide EAB's cost share funding is supported then it is recommended that the policy and fee structures are endorsed with an immediate start date as there are several businesses awaiting the outcome of the policy decision in order to make an application.
- 4.7 An immediate start date will require that Council allocate a non-discretionary budget at the third quarter review for \$70,000 expenditure and \$35,000 income, with a net cost to Council of \$35,000.

CO-ORDINATION

Officer: EXECUTIVE GROUP

Date: 11.02.19



Footpath Trading Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	353, 2010/2261, 2011/262, 2013/1564
Approval Date:	28 May 2007	Commencement Date:	23 March 2015 TBD
Review Date:	TBD	Internal Reference No.:	
Department:	City Development	Division:	Environmental Health and Safety
Function:	15 - Legal Provisions	Responsible Officer:	Manager Environmental Health and Safety

A - PREAMBLE

1. Pursuant to Section 222 of the Local Government Act 1999, the City of Salisbury is vested with the power to grant a permit for the use of streets, roads and road related areas (footpaths, etc) held in its care for use for business purposes. Local government is also empowered to make the granting of a permit subject to conditions.
2. Footpaths are public spaces and their primary role is to provide access for all people to move along them freely and without obstruction. Council aims to provide a safe environment for people who move through the City. Part of this responsibility requires Council to provide a clear path for all people to move along footpaths.
3. Council also has a legal responsibility for the regulation of trading activities in public places, and is committed to ensuring strip shopping centres and business precincts are enhanced by providing the opportunity for footpaths to be used for people to dine and trade.
4. Pedestrian safety is the primary purpose of footpaths, and Council's Footpath Trading Policy has been developed with this distinction in mind. Council is committed to ensuring access for people to move along footpaths with good access and as a minimum, to meet the requirements of the Commonwealth Disability Discrimination Act (1992).
5. The Australian Human Rights Commission states that people who design, build, own, lease, operate or manage premises should achieve equitable access for people with disability by ensuring all parts of premises to which the public is entitled or allowed to enter or use are connected by a network of continuous accessible paths of travel. A continuous accessible path of travel should be the most commonly used and direct path of travel.
6. A continuous accessible path of travel is an uninterrupted route to and within premises providing access to all features, services and facilities. It should not incorporate any step, stairway, turnstile, revolving door, escalator, hazard or other impediment which would prevent it from being safely negotiated by people with disability. Premises include the whole built environment including pathways.

7. In order to achieve best practice Council will encourage compliance with the Australian Standard 1428 Design for Access and Mobility. (AS1428 Part 1 and 2)
8. Where possible Council will aim to achieve an effective accessible pedestrian system throughout shopping precincts through the development and maintenance of a continuous accessible path of travel. This should extend out from the property line to provide a consistent footpath environment inclusive of the needs of all of the community.
9. In certain locations and precincts with footpaths in excess of 3.5 metres and or where shop fronts and subsequent building lines are staggered the safety of pedestrians and access by all persons may be better achieved if trading is kept along the building or property line and alternative methods are implemented to maintain a safe and accessible path of travel.

B - SCOPE

1. The Footpath Trading Policy applies to the use of all footpaths within the City of Salisbury for commercial purposes, by an organisation, individual or business, and for non-commercial purposes by and organisation, community group, individual or business.

C – POLICY PURPOSE/OBJECTIVES

1. The Footpath Trading Policy aims to ensure that safe and accessible pathways are provided for everyone in the community to use. Council has a legal responsibility under the Commonwealth Disability Discrimination Act 1992 to ensure the development and maintenance of a continuous accessible path of travel along footpaths.
2. This path of travel, the “pedestrian zone”, should, extend from the property line with no obstruction or projections wherever possible.
3. The City of Salisbury is responsible for ensuring safe pedestrian walkways. Where this is achieved, Council may allocate space for footpath trading.
4. The Footpath Trading Policy covers:
 - a. what parts of footpaths may be used for footpath trading or the display of goods or signs;
 - b. permit requirements for the use of a Trading Activity Area;
 - c. specific requirements for particular types of footpath trading activities and items;
 - d. administration of the Policy,; and
 - e. Enforcement of permits and the Footpath Trading Policy.

D - DEFINITIONS

1. Authorised Officer - a person appointed under Section 260(1) of the Local Government Act as an authorised officer and holding a position within the Inspectorial Services Section.
2. Accessible car parks - a car park designated for parking by persons with a disability
3. Shoreline – the building line or property line which runs parallel with the footpath that provides a guide for persons with a disability or vision impairment so that they may have a continuous accessible path of travel. There should be no obstructions or projections from this line in order to provide the best possible guidance line for all users including people with vision impairment.

E - POLICY STATEMENT

Guiding Principles

1. Council aims to provide clear, safe and unobstructed access at all times for pedestrians of all abilities on Salisbury's footpaths in accordance with Council's statutory responsibilities and the requirements of the Commonwealth Disability Discrimination Act (1992).
2. The Footpath trading activity must relate to and must make a positive contribution to the urban character and amenity of the area and surrounding residential areas.
3. Council strongly supports the long-term viability and sustainability of retail strips.
4. Council acknowledges the importance of footpath trading in enhancing the amenity, vitality and safety of the City's commercial areas.

Footpath Zones

In order to provide for clear and unobstructed access for pedestrians, three footpath zones are defined within the width of the footpath:

1. Pedestrian Zone

The pedestrian zone provides a continuous accessible path of travel for people of all abilities, extending from the most forward point of the property line, building line or shop front of premises for a minimum of 1.8m. No footpath trading items may extend into this zone at any time, including items overhead below a height of 2.2m.

2. Trading Activity Zone

The trading activity zone is that area of the footpath where goods, outdoor eating furniture and ancillary items and movable advertising signs may be placed and where other permitted street activities may take place.

All activities associated with the trading must be undertaken in this zone, and this includes:

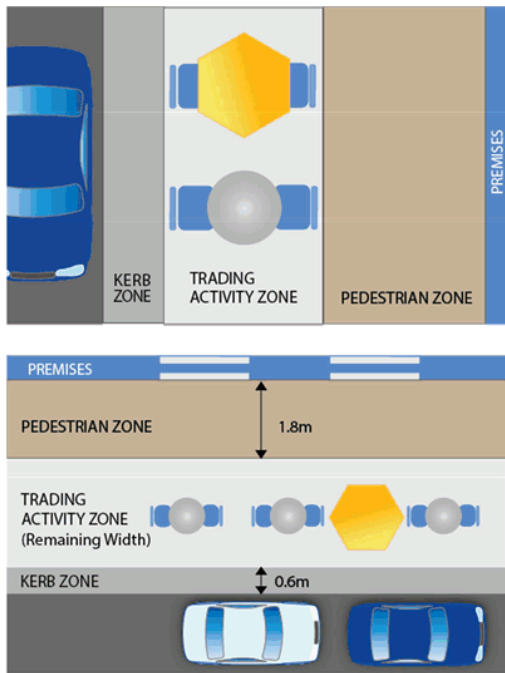
- Space for shoppers selecting or viewing items
- Space for shopping trolleys and carts
- Space for chairs to be moved in and out from tables, and for seated diners.

Council may place markers in the footpath or otherwise delineate the Trading Activity Zone.

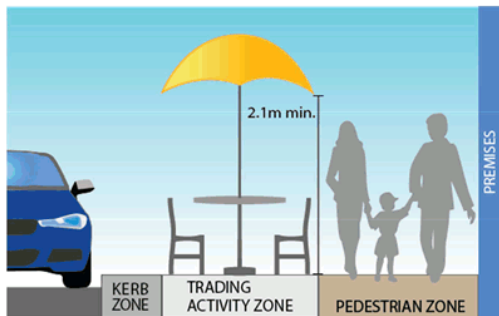
3. Kerbside Zone

The kerbside zone is a buffer from the kerb to allow for access to and from parked vehicles. A minimum of 0.6m buffer as measured from the face of kerb to allow for access to and from parked vehicles including at loading zones. Where there is an accessible parking bay for people with a disability, the setback from the kerb will be at least 1.5m.

Plan View



Elevation View



Footpath Trading

Pedestrian Zone

The **Pedestrian Zone** extends from the building line or shop front of premises for a minimum of 1.8m. No footpath trading items may extend into this zone at any time, including items overhead below a height of 2.2m.

Trading Activity Zone

The **Trading Activity Zone** is the only area of the footpath where goods, outdoor eating furniture, ancillary items, and advertising signs, may be placed, subject to the provisions of this Policy.

Where adjoining premises have footpath trading and access is required to facilitate pedestrian movement from the kerb to the Pedestrian Zone, a setback of 0.5m is required from each side boundary of premises in order to ensure a 1.0m wide access way is maintained between premises from the kerb to the Pedestrian Zone. Any amendment or change to this setback will be subject to individual site assessments.

Encroaching

Where the **Trading Activity Zone** encroaches in front of adjoining premises, consultation will be undertaken with the adjoining property owner and or tenants. The results of the consultation will be considered in the decision to issue a permit that results in the **Trading Activity Zone** encroaching. Any change in property or business ownership will require additional consultation.

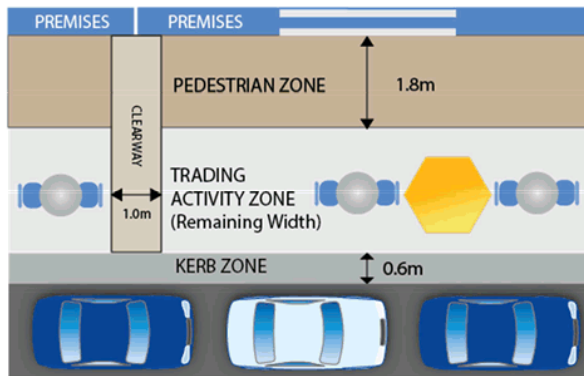
Decisions relating to encroaching trading will give consideration to public safety, access, amenity, business impact, community benefit and space activation and may result in permits for an area for more than one party.

The use of the Trading Activity Zone will take into account the local amenity and individual characteristics of the area in order to locate trading in the best location that maximises pedestrian safety, access, amenity, and enhances and supports business, community benefit and space activation.

The **Kerbside Zone** is a minimum of 0.6m buffer as measured from the face of kerb to allow for access to and from parked vehicles including at loading zones. Where there is an accessible parking bay for people with a disability and access can be provided adjacent to that parking bay the setback from the kerb may be increased to at least 1.5m.

No items may be placed in either the Pedestrian Zone or the Kerbside Zone.

[Diagram 1: Footpath Trading](#)



Note: Trading Activity Zone has varying width dependant on overall width of footpath area.

Footpaths less than 3.0 metres wide

Footpaths of less than 3.0m wide may not be suitable for footpath trading. Any proposed trading will be subject to individual site assessments and may suit goods display only.

Shoreline Trading

Where shop fronts and subsequent shore lines are staggered and where the safety of pedestrians and access by all persons may be better achieved if trading is kept along the shoreline, the following definitions apply.

The **Kerbside Zone** is a minimum of 0.6m buffer as measured from the face of kerb to allow for access to and from parked vehicles including at loading zones.

Where there is an accessible parking bay for people with a disability and access can be provided adjacent to that parking bay the setback from the kerb may be increased to at least 1.5m.

No items may be placed in either the Pedestrian Zone or the Kerbside Zone.

The **Pedestrian Zone** extends from the Kerbside Zone for a minimum of 1.8m. No footpath trading items may extend into this zone at any time, including items overhead below a height of 2.2m.

The **Trading Activity Zone** extends from the shop front to the pedestrian zone and is the only area of the footpath where goods, outdoor eating furniture and ancillary items, and advertising signs, may be placed, subject to the provisions of this Policy.

Where the footpath trading permit **Trading Activity Zone** encroaches in front of adjoining premises, consultation will be undertaken with the adjoining property owner and or tenants. The results of the consultation will be considered in the decision to issue a permit that results in the **Trading Activity Zone** encroaching. Any change in property or business ownership will require additional consultation.

Consultation will aim to give consideration to public safety, access, and amenity, business impact, community benefit and space activation and may result in permits for an area for more than one party.

The use of the Trading Activity Zone will take into account the local amenity and individual characteristics of the area in order to locate trading in the best location that maximises pedestrian safety, access, amenity, and enhances and supports business, community benefit and space activation.

Access and Safety Requirements

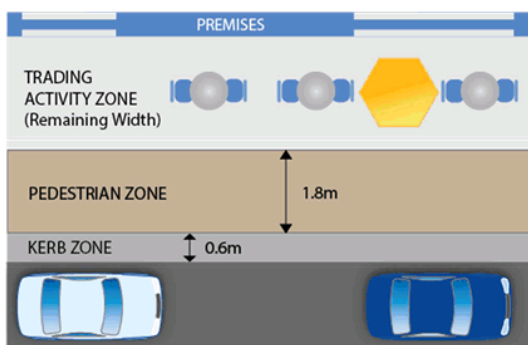
Pedestrian access along the pavement is to be maintained by the provision of at least 1.8 metres of clear pathway along the full street length of the defined area.

Where shoreline trading is permitted an alternate shoreline must be created by providing:

- a solid barrier commencing at ground level and at least 0.9m high
- which provides at least 30% luminance contrast with the footpath (such contrast can be gained by avoiding using tones in the red-green spectrum and instead using yellow against a darker background and black against a paler background).

Where there are adjoining premises trading along the shoreline, consideration will be given to aligning the trading areas to ensure that a continuous path of travel is maintained for pedestrian safety.

Shoreline Trading:



Note: Trading Activity Zone has varying width dependant on overall width of footpath area.

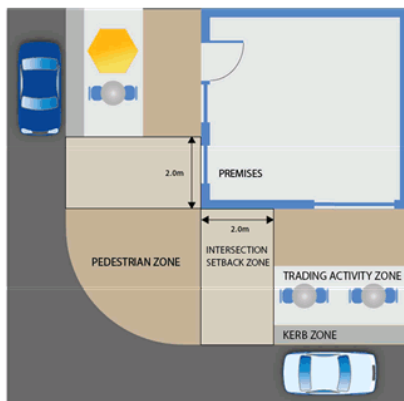
Corner Locations

In order to protect the safety of pedestrians and motorists, no items may be placed within 2.0m of an intersection of building lines without the approval of Council's Traffic Management Section.

If shoreline trading is permitted with proximity to a corner location then no items may be placed within 3.0m of an intersection

Any proposed site which abuts a corner must take account of retention of an adequate view of the roadways in all directions for road users and pedestrians in the vicinity of the site.

Corner Location



Safety Barriers

All applications for footpath trading will be subject to the provision of safety barriers as determined by Council's Traffic Management Section

Barriers must take the form of safety rated Energy Absorbing Bollards (EAB's) mounted near the kerb. A risk assessment matrix is applied to determine if EAB's are required. If it is determined that there is a requirement for EAB's then footpath trading cannot commence until the safety barriers are installed.

EAB's must be installed to prevent the incursion of road vehicles on the pavement at any proposed site which abuts or is in the vicinity of a road or laneway of any type. If appropriate safe views or incursion prevention cannot be achieved by any applicant, a Permit is to be denied.

Other devices may be permitted at the discretion of Council's Traffic Management Section, upon application and subject to providing equivalent or better protection from vehicular incursion than EAB's.

Barrier design and installation must allow pedestrian access between the units and as far as possible blend in with the physical attributes of the site and subject to Council Design guidelines and colours.

EAB's shall be installed by Council and subject to the permit and or renewal fees or installation fees as specified on the application form and or Council's fees and charges register. The EAB's design, colour and specifications will be subject to Council approval.

Authorisations

For the purposes of footpath trading all items shall be moveable and be removed from the footpath when trading ceases. Any item that is intended to be fixed to a footpath, or that permanently overhangs a footpath area requires Council's Authorisation. Examples include:

- a fixed sign
- verandah
- sails
- encroachment by a building
- permanent structures such as screens or planter boxes

Authorisations are issued under Section 221 of the Local Government Act and are subject to additional fees as specified on the application form and Council's fees and charges register.

Development Controls

In addition to requiring consent under the Local Government Act, the establishment of an outdoor dining area may require Development Approval (both Provisional Development Plan Consent and/or Provisional Building Rules Consent) under the Development Act 1993.

If the establishment of an outdoor dining area constitutes a change in land use, it requires Provisional Development Plan Consent. The erection of some fixtures such as blinds, other awnings and screens may also constitute building work for the purposes of the Development Act and therefore will require approval.

Any application for a change in land use and/or building work will be considered in accordance with the Development Plan policy of the Council and will address such matters as the provision of car parking, pedestrian access, and safety for patrons, pedestrians and motorists.

All applications are referred to Development Services for assessment.

Car Parking Fund Contributions

Footpath trading applications relating to dining and the addition of tables and chairs to a business requires the application to be considered by Development Services. The increased seating capacity has an impact on the required car parks for that business and dependant on their locality may trigger a payment to the car parking fund.

The car parking contribution fund fees are as specified on the application form and or Council's fees and charges register.

Liquor Licensing

The consumption of liquor is not permitted without the relevant approvals from Consumer and Business Services. Please refer to the following site: (<https://www.cbs.sa.gov.au/liquor-and-gambling-licenses/apply-for-a-new-liquor-or-gaming-licence/>)

Approval for the consumption of liquor will not be granted in the Permit without approval from Consumer and Business Services.

Noise

The impact of noise from foot path trading can be a concern where the activity is proximity to residential premises and trading is occurring outside of common trading hours. The trading hours may be addressed

thorough development approvals, however the permit conditions can also address and restrict hours of activity if noise nuisances are identified once trading begins.

Subject to Development Planning and other controls along with the conditions of the permit, if footpath trading times are proposed outside of 8am to 7pm and the business is within 50 metres of residential premises, the application will require notification of any affected residential premises before the permit can be considered. The notification process will be conducted before the application for a permit can be considered and subject to additional fees (as specified on the application form and Council's fees and charges register.)

Noise nuisances can also be subject to the provisions of the Local Nuisance and Litter Control Act 2016.

Smoking

From 1 July 2016, smoking was banned in outdoor dining areas in South Australia under section 52 of the Tobacco Products Regulation Act 1997 and this includes outdoor dining areas. The new law is designed to protect the community from exposure to potentially harmful tobacco smoke and increase the comfort and enjoyment of outdoor dining areas for all patrons.

Smoking relates to any ignited tobacco product or non-tobacco product and includes smoking from a cigarette, pipe, water pipe or any other smoking device. Water pipes are also known as shisha, sheesha, hookah, nargila, argileh, hubble bubble and goza.

Dedicated smoking areas can be established for the purposes of smoking and drinking, including coffee, and or the consumption of snack foods. Snack food includes foods such as potato crisps, nuts, chocolate bars and pre-packaged biscuits. Sandwiches and hot chips are not considered to be snack food.

Any smoking area must be physically separated from the dining area and not create a nuisance to pedestrians and other footpath trading areas.

The use of water pipe or any other similar smoking device, alternatively known as shisha or sheesha and other names, are not permitted on footpath trading areas due to the excessive smoke created and usual long term duration of the activity. This can result in potential impacts on health and nuisance impact on pedestrians and others in general proximity to the area.

Approval for a dedicated cigarette smoking area (other than water pipe or any other similar smoking device) is subject to site specific assessment by officers and any identified or potential impact or nuisance on adjoining properties or the pedestrian zone. Public consultation may be required for any dedicated smoking area with priority given to non-smoking environments.

Dogs in Outdoor Dining

Under the provision of the Food Act 2001 and Food Safety Standards (standard 3.2.2 Clause 24) a food business must permit an assistance animal in areas used by customers, and a food business may permit a dog that is not an assistance animal to be present in an outdoor dining area.

Dogs that are not assistance dogs should be:

- (a) under the control of a person who is present in the outside area;
- (b) restrained by a lead that is not more than 2 metres in length;

Public Infrastructure

A minimum clearance of 1000 mm, or less if permitted by Council, shall be provided from any existing street furniture or other infrastructure on or adjacent to the footpath, including but not limited to seats;

benches; bollards; litter bins; bike racks; post boxes; telephone boxes; service pits; public transport stops/taxi ranks; public transport shelters; loading zones; parking meters; traffic signal boxes; fire hydrants and other emergency assets; pedestrian crossings; and street trees or shrubs.

Application may be made to Council for the relocation, at the applicant's cost, of Council maintained seats, benches or bicycle racks, in association with an application for a permit for footpath trading.

Any request for relocation of seats, benches or bicycle racks, must be accompanied by a plan showing the site for the proposed relocation of the street furniture item and a letter of no objection from the owner and occupier of the premises outside which the item is proposed to be relocated.

Service Authority Works and Special Events

Service authorities or Council may require the use of a site to undertake works or maintenance works. When this, or any parade, festival or special event is scheduled, it will be normal practice to give at least seven days notice of the requirement to remove any item from the footpath.

In an emergency or where maintenance works are considered to be urgent, sites may need to be cleared immediately.

Permit holders will be responsible for the movement of all items and any associated costs.

Evidence of a Permit

Any business that is permitted to undertake a commercial activity on the footpath adjacent to that business must be able to produce a copy of the current permit to an Authorised Officer upon request.

The permit may include the permit number, date of issue and a summary of the items permitted to be placed on the footpath.

Reinstatement

Any damage to footpaths or alterations undertaken must be reinstated by the permit holder at their costs and to Council's specifications or the permit holder will be responsible for reimbursing Council for any reinstatement works.

General Conditions for Footpath Trading

Please refer to Attachment 1 of this Policy

Administration of the Policy

Applying for a Permit

Pursuant to Section 222 of the Local Government Act 1999, a permit is required for the use of streets, roads and road related areas (footpaths) held in Council's care for use for business purposes. Local government is also empowered to make the granting of a permit subject to conditions.

1) Apply

To apply for a permit an applicant must complete and sign the Footpath Trading Permit application form.

2) Assess

Staff undertake assessment, consult with the applicant and refer and consult with other Sections of Council and process the application. Other relevant areas include:

- Traffic Management – to assess EAB requirements and any other traffic management issues,
- Technical Services Design and Civil Infrastructure Construction – to assess the design and install of EAB's, and the costs for installation and to schedule install if approved.
- Community Services to assess Disability Access issues for applications that do not meet required parameters,
- Property Services – only if fixed items are proposed to assess any requirements for authorisations and implement that process with the applicant,
- Development Services – all applications are referred for assessment against previous approvals.
- Environmental Health - only for new applications associated with new food business start-ups or change of ownership.

In considering an application for Footpath Trading, Council shall have regard to the requirements under the Local Government Act, the specific and general requirements specified in this Policy and the specific local conditions relevant to the application, including

- a) the width of the footpath;
- b) the location of existing trees, street furniture or other public infrastructure;
- c) proximity to major roads, speed of road, disabled parking bays, loading bays, loading zones, clearways, and parking angles;
- d) the likely number of pedestrians, at particular times of day; and
- e) the location of nearby residences.

2) Notification

Before a permit is granted for the first time, or after a change of business use, Council may give notice of the application to persons who may be affected by the granting of a permit which will entitle those persons to make a submission which must be considered by Council before a determination is made on the application.

3) Issue Invoice and Permit or Refusal and Cancellation

Invoice and Permit - Staff will issue an invoice for all required fees and upon payment and presentation of insurance documentation, issue the permit.

Council may issue a permit in accordance with an application as submitted, or with modifications and with or without special conditions.

Refusal or Cancellation - Council may refuse to issue a permit, refuse to modify the conditions of an existing permit or cancel a permit if:

- a) any requirements of this Policy are not met;

- b) the sight and access of drivers, cyclists or pedestrians is interfered with so as to create a hazardous situation;
- c) there is likely to be detriment to the amenity of the area,
- d) personal safety is likely to be compromised,
- e) any existing permit conditions have not been complied with and there has been a failure to comply with any notice served, or
- f) the permit holder fails to maintain the stipulated minimum public liability insurance.

Fees and term

Fees and charges for footpath trading are determined by Council annually and provided in the fees & charges register and updated on the application form. Fees are subject to review and change annually or more frequently if so required and approved by Council.

Unless otherwise specified on the permit, the permit term shall expire one year from the date of issue, except in those instances where it is withdrawn by Council prior to the expiry date.

Permits are not transferable. A new permit must be obtained if the proprietorship of a business changes. This may not require any additional fees until such time that the permit is due for renewal.

A permit expires if the permit holder ceases to maintain the appropriate public liability insurance or to meet any of the conditions of the agreement and this Policy.

Enforcement of Policy and Legislative Provisions

Council authorised officers will check compliance with this Policy and the conditions of relevant permits on a regular basis.

Upon detection of a breach of the Footpath Trading Policy or a specific condition of any permit issued, Council will take action in accordance with the provisions of the Local Government Act as applicable.

Enforcement action may include a verbal direction or written notice to comply, an Infringement Notice or Council may impound the items on the footpath that do not comply this Policy and the conditions placed on any permit.

Insurance

The applicant/permit holder shall maintain a public risk insurance policy from a reputable insurer for the minimum amount of Twenty Million Dollars (\$20,000,000.00) per claim or such other amount as the Council may reasonably require from time to time. Such policy must indemnify the permit holder for any injury, loss or damage to other persons or property arising directly or indirectly from any activity associated with the permit holders footpath trading

The applicant/permit holder must not commence any activity on said footpath/road until the applicant has provided to the Council a copy of the public risk insurance policy (a Certificate of Currency) and the permit has been issued.

The Permit holder must maintain this insurance for the duration of the permit.

F - LEGISLATION

1. Local Government Act 1999
2. Disability Discrimination Act 1992
3. Australian Standard 1428 (Parts 1 and 2) Design for Access and Mobility.

G - REFERENCES

1. Local Government Association – Outdoor Dining Background Paper
2. Adelaide City Council Outdoor Dining Guidelines 2014
3. City of Holdfast Bay Outdoor Dining Policy
4. Banyule City Council Footpath Trading Policy
5. City of Yarra Footpath Trading Policy
6. <http://www.humanrights.gov.au/>

H - ASSOCIATED PROCEDURES

1. City Of Salisbury Application for a Permit to Use a Public Road for Business Purposes.

Document Control

Document ID	Footpath Trading Policy
Prepared by	John Darzanos
Version	0.1
Document Status	Draft
Issue Date	02/01/2019 TBD

Attachment 1

General Conditions for Footpath Trading Permits

Encroachments

- 1) A setback of 0.5m is required from each side boundary of premises when there are adjoining premises that have footpath trading in order to ensure a 1.0m wide access way is maintained between premises from the kerb to the Pedestrian Zone. Where there is no additional footpath trading or there is sufficient alternate access then the trading can be up to the adjoining premises boundary.
- 2) Footpath Trading Activity Zone cannot encroach in front of adjoining premises without consultation with the adjoining property owner and or tenants and the approval by Council within the permit.
- 3) Encroaching trading activity zone may result in permits for an area for more than one party and may be subject to special conditions.
- 4) Any change in property or business ownership or requests for footpath trading from the affected property owner will require additional consultation and the permit is subject to review and amendment.

Outdoor Eating

- 5) Any chairs, tables and ancillary items associated with outdoor eating:
 - a) may only be placed in the Trading Activity Zone of the footpath;
 - b) may only be placed on the footpath during the normal trading hours of the business to which they relate, unless otherwise approved by Council;
 - c) must be of a suitable design and in particular:
 - i) must be of a style, appearance, materials, finishes and colours which are of a high standard, attractive, durable, shatterproof, unobtrusive and complement the character of the streetscape.;
 - ii) must be uniform in style and design for each premises;
 - iii) must contrast with their background to assist people with vision impairment;
 - iv) must be portable, yet sturdy and windproof.
- 6) The permit holder must:
 - a) maintain the footpath eating area in a clean and tidy condition at all times and immediately clean up any spills and litter;
 - b) where smoking is permitted, supply each table outside with a wind-proof ashtray at all times and be responsible for cigarette ash, butts and any other litter generated by patrons of a footpath eating area;
 - c) ensure that patrons do not move tables and chairs or ancillary items from their positions and obstruct the Pedestrian Zone;
 - d) ensure that patrons do not allow pets, prams or any other personal items to obstruct the Pedestrian Zone;
 - e) ensure that food and beverages are not served to patrons standing on the footpath within the Pedestrian Zone;
 - f) ensure that no noise or other disturbance creates a nuisance or causes detriment to the amenity of the neighbourhood; and
 - g) be responsible for reimbursing Council for any reinstatement works as a result of damage to footpaths or street fixtures and furniture.

- 7) A condition may be placed on a permit requiring a permit holder to place written reminders to patrons in the outdoor eating facilities on the footpath, regarding the above responsibilities, if deemed appropriate by an Authorised Officer.
- 8) Liquor is not to be sold, consumed or served within the Trading Activity Zone unless approved by Consumer and Business Services.
- 9) Any premises where alcohol is served or consumed on the footpath must have its liquor license endorsed with the footpath as part of the "licensed area" on the liquor license for those premises.
- 10) Waiting staff at premises with outdoor eating facilities on the footpath must facilitate free access by all footpath users within the Pedestrian Zone and give all footpath users priority right of way.
- 11) Separate cash registers, counter facilities or storage facilities are not permitted on the footpath.
- 12) No food or drink is to be prepared, cooked or heated in the footpath eating area except in accordance with any permit granted for temporary food premises.
- 13) The handling and serving of food and drinks to patrons within the footpath eating area must be conducted in accordance with the requirements of Food Act and Food Safety Regulations and Council's Public and Environmental Health Services Section.

Goods

- 14) Any goods for display:
 - a) may only be placed in the Trading Activity Zone of the footpath;
 - b) the viewing and selection of goods on display, and the positioning of any trolleys must also be conducted within the trading activity zone
 - c) may only be placed on the footpath during the normal trading hours of the business to which they relate;
 - d) must not exceed a height of 1500 mm, and the width shall allow for the viewing and selection of goods on display, and the positioning of any trolleys within the Trading Zone,
 - e) must be kept in a clean and tidy state, including the area around the display; and
 - f) if a display of foodstuffs, this must comply with the requirements of the Food Act and Council's Public and Environmental Health Services Division.
- 15) Goods (except furniture) must be displayed on stands approved by Council, which in particular:
 - a) must be of a style, appearance, materials, finishes and colours which are of a high standard, attractive, durable, shatterproof, unobtrusive and complement the character of the streetscape;
 - b) must not have sharp, pointed, or jagged edges, corners or protrusions;
 - c) must be stable and able to withstand adverse weather conditions;
 - d) must be secured in a manner that ensures that adverse weather conditions will not create a risk for any footpath users, property or passing traffic but may not be affixed to any footpath, building, street furniture, pole or other structure;
 - e) must contrast with their background to assist people with vision impairment;
 - f) must not comprise any movable parts (e.g. spinning, flapping);
 - g) must not be illuminated externally or internally; and
 - h) must not cause any damage to the footpath surface.
- 16) Goods for display will not be permitted:
 - a) where access to a loading zone or disabled parking bay will be impeded;
 - b) where they will cause difficulty to any footpath users, including pedestrians and people exiting or accessing parked vehicles or the footpath;

- c) to overhang either the kerb or Pedestrian Zone.

Moveable Advertising Signs

- 17) In addition to the requirements of By Law 2 Moveable Signs, a footpath trading permit relating to moveable signs shall also comply with the following requirements:
- 18) One movable advertising sign only may be displayed for each street frontage of a business.
- 19) Any movable advertising sign:
 - a) may only be placed in the Trading Activity Zone;
 - b) may only be displayed outside of the frontage of the business to which it relates;
 - c) must not exceed 600 mm in width or 900 mm in height;
 - d) must be secured in place by a means that is not reliant on, or physically tied to any infrastructure or trees. The means by which these signs are to be secured must not extend beyond the perimeter of the permitted sign and must be of a type approved by Council. Any securing device is to be removed with the sign in accordance with permitted display times;
 - e) may only be displayed during the normal trading hours of the business to which it relates;
 - f) must contrast with its background to assist people with vision impairment; and
 - g) may only feature the business name or service provided by the business to which it relates.
- 20) Inflatable signs; portable electric signs; illuminated, revolving, spinning or flashing signs; flags and banners are prohibited.
- 21) The display of a movable advertising sign is not permitted where a business is conducting any other commercial activity on the footpath.

Outdoor Speakers/Amplification equipment

- 22) Permission will be required to affix speakers to a building or veranda.
- 23) Any sound or noise produced must not be annoying or cause a disturbance, which in the opinion of Authorised Officer, creates a nuisance or causes detriment to the amenity of the neighbourhood.
- 24) No sound amplification equipment or jukeboxes may be utilised in the footpath area.

Outdoor Heaters

- 25) Any outdoor heater:
 - a) must be associated with the use of the footpath for an outdoor eating facility;
 - b) may only be placed or fixed in the Trading Activity Zone; and
 - c) must comply with all relevant safety standards

Umbrellas

- 26) Any umbrellas:
 - a) may only be placed in the Trading Activity Zone;
 - b) must be not less than 2100 mm high at the lowest point other than the pole and must not protrude over the kerb or into the pedestrian zone;
 - c) Any moveable item that protrudes into the pedestrian zone must not be below a height of 2200mm.
 - d) must be weighted and/or secured so as not to pose a safety hazard.
- 27) At times when it is raining, water from umbrellas must not be discharged within the Pedestrian Zone.

28) Umbrellas may be secured to the footpath by a lock-in device. Lock-in devices will only be approved where the device lies flush with the footpath when the umbrellas are not displayed. Applications for approval for lock-in devices should be made to Council Property Services. Plans and specifications of the items will be required to be lodged with Council prior to any umbrella being placed with a lock-in device.

Barrier Screens

Barrier screens include:

- low barrier screens, which are predominantly made of canvas or vinyl;
- high barrier screens, which are usually made of clear material such as safety glass or heavy duty plastic and are fitted to the footpath by lock-in devices; and
- full-length awnings/blinds, which are commonly attached from a verandah to the footpath.

The form and construction of any barrier screen must be suitable for its functional requirements and location, taking into account prevailing weather conditions.

29) Low Barrier Screens

- a) must be associated with the use of the footpath for an outdoor eating facility;
- b) may only be placed in the Trading Activity Zone;
- c) may be no more than 1200 mm high;
- d) may only be in place during the normal trading hours of the business with which they are associated;
- e) must be placed so that the screens are stable and secure or weighted so that they will not be moved by patrons or prevailing weather.
- f) must contrast with their background to assist people with vision impairment;

30) High Barrier Screens

- a) must be associated with the use of the footpath for an outdoor eating facility;
- b) may only be placed in the Trading Activity Zone;
- c) may only be in place during the normal trading hours of the business to which they relate;
- d) must be at least 1500 mm high (except where the premises are located on corner), be transparent and constructed of safety glass or heavy-duty plastic;
- e) must have a 75 mm wide band 1000 mm above the ground that contrasts with its background to provide a visual guide for all pedestrians;
- f) must be fitted to the footpath with a lock-in device, but be removable. Applications for approval for lock-in devices should be made to Council Property Services.

31) High barrier screens must be removed after the normal trading hours of the business with which they are associated in order to facilitate street cleaning by vehicles.

32) High barrier screens may not be used for advertising other than the name of the business or unless otherwise approved.

33) Lock-in devices will only be approved where the device lies flush with the footpath when the barriers (or part thereof) are not in place. Applications for approval for lock-in devices should be made to Council's Property Services. Plans and specifications of the items will be required to be lodged with Council prior to any screen being placed with a lock-in device. Please refer to the Section on Authorisations for further information.

- 34) Permanent screens will require a separate application for authorization under Section 221 of the Local Government Act from Council's Property Services Section. Please refer to the Section on Authorisations for further information.
- 35) Where the premises are located on a corner an application for screen will be assessed by Council's Traffic Management Section with regard to line of sight and a lower screen may be required.
- 36) Full Length Awnings/Blinds
- Full length awnings or blinds may only be placed in the Trading Activity Zone.
 - Full length awnings or blinds may only be fitted subject to the approval and requirements of Council's Development Services Section and Council's Property Services Section.

Planter Boxes

- 37) Planter boxes:
- may only be placed in the Trading Activity Zone and plants shall not extend beyond that zone;
 - may only be in place during the normal trading hours of the business to which they relate;
 - must provide a positive contribution to the visual amenity of the street;
 - must not exceed 1200 mm in height above the footpath level (including plants);
 - must be well maintained with healthy plants of suitable form, hardiness and species
 - must not be watered in a manner which results in the growth of mosses, algae or slime moulds;
and
 - must be free of litter, including cigarette butts.
 - must contrast with their background to assist people with vision impairment
 - Planter boxes may not be used for advertising purposes.

Cleaning

- 38) The permit holder is responsible for maintaining the trading area in a clean and sanitary condition at all times, and responsible for cleaning the footpath and paved surfaces and maintaining the area in a good state of cleanliness.
- 39) Some areas may only be cleaned by Council, and if soilage is attributed to the Footpath Trading then the costs may be attributed to the permit holder.
- All tables, chairs, goods, displays, movable advertising signs and ancillary items must be removed and the footpath kept clear to facilitate any additional Council cleaning at times required by Council

Safety

- 40) All items placed on the footpath shall be stable, must not pose a hazard to pedestrians or road users and shall not:
- include sharp or protruding items;
 - be capable of shattering;
 - include moving or oscillating parts;
 - include reflective items that pose a risk to traffic; or
 - be located where pedestrian or driver sightlines will be obstructed.

Lighting

- 41) All foot path trading activities that occur at times of low lighting conditions or at times after sunset may require the provision of additional lighting to ensure the approved area is adequately lit and all areas visible to users, pedestrians and road users.
- 42) Additional lighting requirements will be provided by the permit holder and shall comply with any requirements or conditions by Council.

- 43) If an approved footpath trading area cannot provide sufficient lighting then the area may not be suited to trading at times of low lighting conditions or at times after sunset and or the trading times may be restricted to daylight hours.

Other Legislative Compliance Requirements

- 44) A footpath trading permit does not exempt the permit holder from compliance with any other legislative provision that may be applicable to their trade or operations.
- 45) It is the responsibility of the permit holder to ensure compliance with any other legislative provisions.



Footpath Trading Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	353, 2010/2261, 2011/262, 2013/1564
Approval Date:	28 May 2007	Commencement Date:	23-March-2015 TBD
Review Date:	TBD	Internal Reference No.:	
Department:	City Development	Division:	Environmental Health and Safety
Function:	15 - Legal Provisions	Responsible Officer:	Manager Environmental Health and Safety

A - PREAMBLE

1. Pursuant to Section 222 of the Local Government Act 1999, the City of Salisbury is vested with the power to grant a permit for the use of streets, roads and road related areas (footpaths, etc) held in its care for use for business purposes. Local government is also empowered to make the granting of a permit subject to conditions.
2. Footpaths are public spaces and their primary role is to provide access for all people to move along them freely and without obstruction. Council aims to provide a safe environment for people who move through the City. Part of this responsibility requires Council to provide a clear path for all people to move along footpaths.
3. Council also has a legal responsibility for the regulation of trading activities in public places, and is committed to ensuring strip shopping centres and business precincts are enhanced by providing the opportunity for footpaths to be used for people to dine and trade.
4. Pedestrian safety is the primary purpose of footpaths, and Council's Footpath Trading Policy has been developed with this distinction in mind. Council is committed to ensuring access for people to move along footpaths with good access and as a minimum, to meet the requirements of the Commonwealth Disability Discrimination Act (1992).
5. The Australian Human Rights Commission states that people who design, build, own, lease, operate or manage premises should achieve equitable access for people with disability by ensuring all parts of premises to which the public is entitled or allowed to enter or use are connected by a network of continuous accessible paths of travel. A continuous accessible path of travel should be the most commonly used and direct path of travel.
6. A continuous accessible path of travel is an uninterrupted route to and within premises providing access to all features, services and facilities. It should not incorporate any step, stairway, turnstile, revolving door, escalator, hazard or other impediment which would prevent it from being safely negotiated by people with disability. Premises include the whole built environment including pathways.

7. In order to achieve best practice Council will encourage compliance with the Australian Standard 1428 Design for Access and Mobility. (AS1428 Part 1 and 2)
8. Where possible Council will aim to achieve an effective accessible pedestrian system throughout shopping precincts through the development and maintenance of a continuous accessible path of travel. This should extend out from the property line to provide a consistent footpath environment inclusive of the needs of all of the community.
9. In certain locations and precincts with footpaths in excess of 3.5 metres and or where shop fronts and subsequent building lines are staggered the safety of pedestrians and access by all persons may be better achieved if trading is kept along the building or property line and alternative methods are implemented to maintain a safe and accessible path of travel.

B - SCOPE

1. The Footpath Trading Policy applies to the use of all footpaths within the City of Salisbury for commercial purposes, by an organisation, individual or business, and for non-commercial purposes by and organisation, community group, individual or business.

C – POLICY PURPOSE/OBJECTIVES

1. The Footpath Trading Policy aims to ensure that safe and accessible pathways are provided for everyone in the community to use. Council has a legal responsibility under the Commonwealth Disability Discrimination Act 1992 to ensure the development and maintenance of a continuous accessible path of travel along footpaths.
2. This path of travel, the “pedestrian zone”, should, extend from the property line with no obstruction or projections wherever possible.
3. The City of Salisbury is responsible for ensuring safe pedestrian walkways. Where this is achieved, Council may allocate space for footpath trading.
4. The Footpath Trading Policy covers:
 - a. what parts of footpaths may be used for footpath trading or the display of goods or signs;
 - b. permit requirements for the use of a Trading Activity Area;
 - c. specific requirements for particular types of footpath trading activities and items;
 - d. administration of the Policy,; and
 - e. Enforcement of permits and the Footpath Trading Policy.

D - DEFINITIONS

1. Authorised Officer - a person appointed under Section 260(1) of the Local Government Act as an authorised officer and holding a position within the Inspectorial Services Section.
2. Accessible car parks - a car park designated for parking by persons with a disability
3. Shoreline – the building line or property line which runs parallel with the footpath that provides a guide for persons with a disability or vision impairment so that they may have a continuous accessible path of travel. There should be no obstructions or projections from this line in order to provide the best possible guidance line for all users including people with vision impairment.

E - POLICY STATEMENT

Guiding Principles

1. Council aims to provide clear, safe and unobstructed access at all times for pedestrians of all abilities on Salisbury's footpaths in accordance with Council's statutory responsibilities and the requirements of the Commonwealth Disability Discrimination Act (1992).
2. The Footpath trading activity must relate to and must make a positive contribution to the urban character and amenity of the area and surrounding residential areas.
3. Council strongly supports the long-term viability and sustainability of retail strips.
4. Council acknowledges the importance of footpath trading in enhancing the amenity, vitality and safety of the City's commercial areas.

Footpath Zones

In order to provide for clear and unobstructed access for pedestrians, three footpath zones are defined within the width of the footpath:

1. Pedestrian Zone

The pedestrian zone provides a continuous accessible path of travel for people of all abilities, extending from the most forward point of the property line, building line or shop front of premises for a minimum of ~~1,800-mm~~. No footpath trading items may extend into this zone at any time, including items overhead below a height of ~~2,200-mm~~.

2. Trading Activity Zone

The trading activity zone is that area of the footpath where goods, outdoor eating furniture and ancillary items and movable advertising signs may be placed and where other permitted street activities may take place.

All activities associated with the trading must be undertaken in this zone, and this includes:

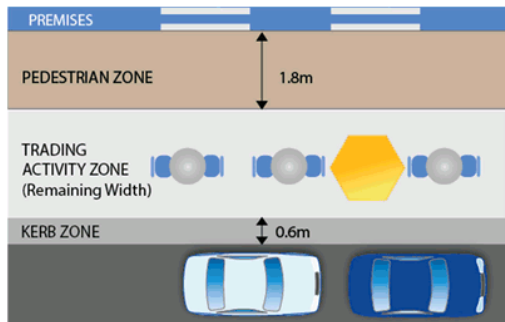
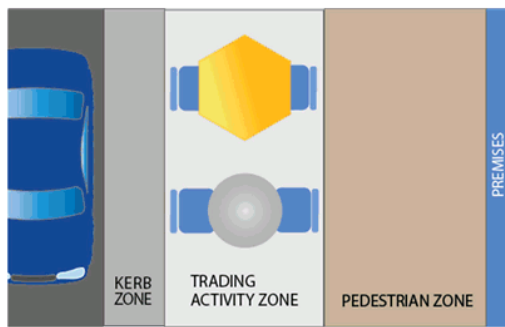
- Space for shoppers selecting or viewing items
- Space for shopping trolleys and carts
- Space for chairs to be moved in and out from tables, and for seated diners.

Council may place markers in the footpath or otherwise delineate the Trading Activity Zone.

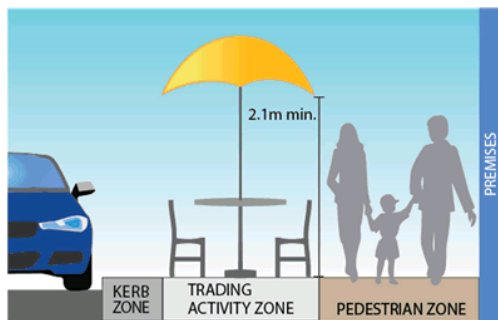
3. Kerbside Zone

The kerbside zone is a buffer from the kerb to allow for access to and from parked vehicles. A minimum of ~~0,600-mm~~ buffer as measured from the face of kerb to allow for access to and from parked vehicles including at loading zones. Where there is an accessible parking bay for people with a disability, the setback from the kerb will be at least ~~1,500-mm~~.

Plan View



Elevation View



Footpath Tradings wider than 3500 mm

For footpaths wider than 3500 mm:

Pedestrian Zone

The **Pedestrian Zone** extends from the building line or shop front of premises for a minimum of 1,800 mm. No footpath trading items may extend into this zone at any time, including items overhead below a height of 2,200 mm.

Trading Activity Zone

The **Trading Activity Zone** is the only area of the footpath where goods, outdoor eating furniture, and ancillary items, and advertising signs, may be placed, subject to the provisions of this Policy.

Where adjoining premises have footpath trading and access is required to facilitate pedestrian movement from the kerb to the Pedestrian Zone, a A setback of 0,500 mm is required from each side boundary of premises in order to ensure a 1,000 mm wide access way is maintained between premises from the kerb to the Pedestrian Zone. Any amendment or change to this setback will be subject to individual site assessments.

Encroaching

Where the Trading Activity Zone encroaches in front of adjoining premises, consultation will be undertaken with the adjoining property owner and/or tenants. The results of the consultation will be considered in the decision to issue a permit that results in the Trading Activity Zone encroaching. Any change in property or business ownership will require additional consultation.

and the written consent from adjoining tenants. Changes in tenancies will require consents to be reviewed. Decisions relating to encroaching trading will give consideration to public safety, access, amenity, business impact, community benefit and space activation and may result in permits for an area for more than one party.

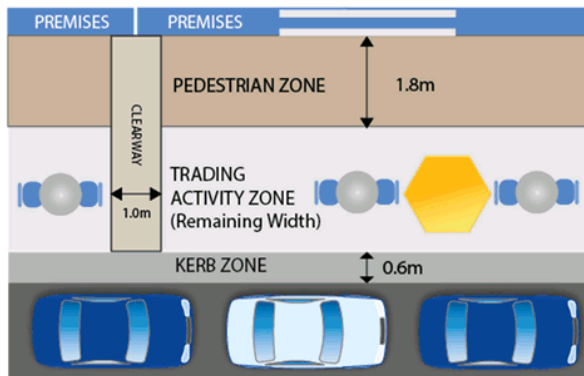
The use of the Trading Activity Zone's that exceeds 900mm metres in width will be subject to individual assessment by Authorised Officers to take into account the local amenity and individual characteristics of the area in order to locate trading in the best location that maximises pedestrian safety, access, amenity, and enhances and supports business, community benefit and space activation.

Where the footpath is larger than 3.5m and provides for a larger trading activity zone the use of the additional vacant space can be utilised by Council and or approved for footpath trading after consultation giving consideration to public safety, access, and amenity, business impact, community benefit and space activation.

The **Kerbside Zone** is a minimum of 0,660 mm buffer as measured from the face of kerb to allow for access to and from parked vehicles including at loading zones. Where there is an accessible parking bay for people with a disability, and access can be provided adjacent to that parking bay the setback from the kerb may be increased will be to at least 1,500 mm.

No items may be placed in either the Pedestrian Zone or the Kerbside Zone.

Diagram 1: Footpath Tradings Wider than 3500mm



Note: Trading Activity Zone has varying width dependant on overall width of footpath area.

Footpaths from 3000 mm to 3500 mm wide

For footpaths from 3000 mm to 3500 mm:

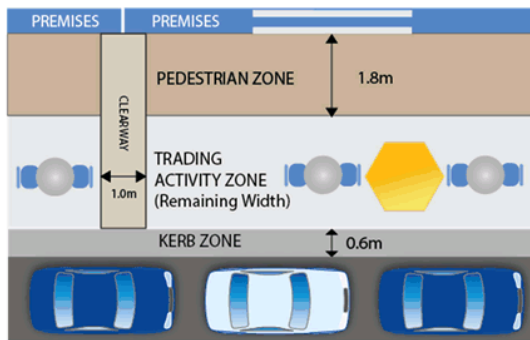
The **Pedestrian Zone** extends from the building line or shop front of premises for a minimum of 1800mm. No footpath trading items may extend into this zone at any time, including items overhead below a height of 2200 mm.

The **Trading Activity Zone** is the only area of the footpath where goods, outdoor eating furniture and ancillary items, and advertising signs, may be placed, subject to the provisions of this Policy. A setback of 500 mm is required from each side boundary of premises in order to ensure a 1000 mm wide access way between premises from the kerb to the Pedestrian Zone. Any amendment or change to this setback will be subject to individual site assessments and the written consent from adjoining tenants. Changes in tenancies will require consents to be reviewed.

The **Kerbside Zone** is a minimum of 600 mm buffer as measured from the face of kerb to allow for access to and from parked vehicles. Where there is an accessible parking bay for people with a disability, the setback from the kerb must be at least 1500 mm.

No items may be placed in either the Pedestrian Zone or the Kerbside Zone.

Footpaths from 3000 mm to 3500 mm wide



Footpaths less than 3,000 metres wide

In order to provide a continuous accessible path of travel for people of all abilities, footpaths of less than 3,000 mm wide may not be suitable for footpath trading.

Any proposed trading will be subject to individual site assessments and may suit goods display only.

Shoreline Trading

~~For footpaths wider than 3500 mm and or Wwhere shop fronts and subsequent shore lines are staggered and where the safety of pedestrians and access by all persons may be better achieved if trading is kept along the shoreline, the following definitions apply.~~

The **Kerbside Zone** is a minimum of ~~0.600 mm~~ buffer as measured from the face of kerb to allow for access to and from parked vehicles including at loading zones.

~~Where there is an accessible parking bay for people with a disability and access can be provided adjacent to that parking bay the setback from the kerb may be increased to at least 1.5m.~~

~~Where there is an accessible parking bay for people with a disability, the setback from the kerb will be at least 1500 mm.~~

No items may be placed in either the Pedestrian Zone or the Kerbside Zone.

The **Pedestrian Zone** extends from the Kerbside Zone for a minimum of ~~1,800 mm~~. No footpath trading items may extend into this zone at any time, including items overhead below a height of ~~2,200 mm~~.

The **Trading Activity Zone** extends from the shop front to the pedestrian zone and is the only area of the footpath where goods, outdoor eating furniture and ancillary items, and advertising signs, may be placed, subject to the provisions of this Policy.

~~Where the footpath trading permit **Trading Activity Zone** encroaches in front of adjoining premises, consultation will be undertaken with the adjoining property owner and or tenants. The results of the consultation will be considered in the decision to issue a permit that results in the **Trading Activity Zone** encroaching. Any change in property or business ownership will require additional consultation.~~

~~Consultation will aim to give consideration to public safety, access, and amenity, business impact, community benefit and space activation and may result in permits for an area for more than one party.~~

~~A setback of 500 mm is required from each side boundary of premises in order to ensure a 1000 mm wide access way between premises from the kerb to the Pedestrian Zone. Any amendment or change to this setback will be subject to individual site assessments and the written consent from adjoining tenants. Changes in tenancies will require consents to be reviewed.~~

~~The Trading Activity Zone shall be a maximum of 900mm in width and any trading zones that exceed 900mm in width will be subject to individual assessment by Authorised Officers to take into account the local amenity and individual characteristics of the area in order to locate trading in the best location that maximises pedestrian safety.~~

~~Where the trading zone exceeds 900mm, the area permitted for trading may be restricted by the permit to a maximum width below that of the available area in order to locate trading in the best location that maximises pedestrian safety and reduces the effect of creating an island trading environment that may be of greater hazard to pedestrians.~~

~~The use of the Trading Activity Zone will take into account the local amenity and individual characteristics of the area in order to locate trading in the best location that maximises pedestrian safety, access, amenity, and enhances and supports business, community benefit and space activation.~~

Access and Safety Requirements

Pedestrian access along the pavement is to be maintained by the provision of at least 1.8 metres of clear pathway along the full street length of the defined area.

Where shoreline trading is permitted an alternate shoreline must be created by providing:

- a solid barrier commencing at ground level and at least 0.900m high
- which provides at least 30% luminance contrast with the footpath (such contrast can be gained by avoiding using tones in the red-green spectrum and instead using yellow against a darker background and black against a paler background).

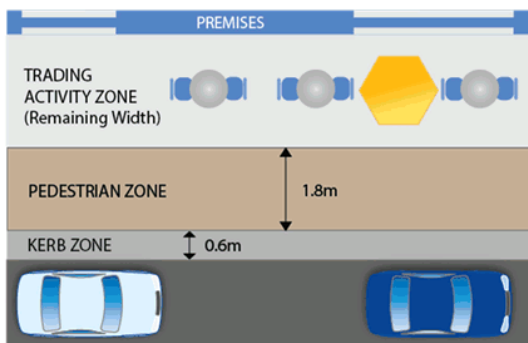
Where there are adjoining premises trading along the shoreline, consideration will be given to aligning the trading areas to ensure that a continuous path of travel is maintained for pedestrian safety.

Explanation

Blind or vision impaired pedestrians use either “tactile” information (with the aid of a “long cane”) and/or the “luminance contrast” between surfaces of different colours to maintain their line of travel. Examples are a long cane user will travel along a suburban footpath using the cane to detect the path ahead and correcting their line of travel if the cane detects a different surface indicating that they are wandering off the path;

people who do not use a cane (and some long cane users) rely on their residual vision to identify the facade of a number of shops in a retail area and will get their bearings in relation to this facade – when the facade stops and they encounter daylight they know that they have either reached a point where the path changes direction or where the path arrives at an open space – an intersection or a park.

Shoreline Trading:



Note: Trading Activity Zone has varying width dependant on overall width of footpath area.

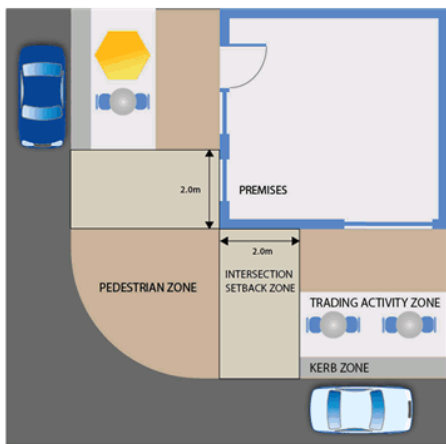
Corner Locations

In order to protect the safety of pedestrians and motorists, no items may be placed within 2.000 m of an intersection of building lines without the approval of Council’s Traffic Management Section.

If shoreline trading is permitted with proximity to a corner location then no items may be placed within 3.000m of an intersection

Any proposed site which abuts a corner must take account of retention of an adequate view of the roadways in all directions for road users and pedestrians in the vicinity of the site.

Corner Location



Safety Barriers

All applications for footpath trading will be subject to the provision of safety barriers as determined by Council's Traffic Management Section

Barriers must take the form of safety rated Energy Absorbing Bollards (EAB's) mounted near the kerb. A risk assessment matrix is applied to determine if EAB's are required. If it is determined that there is a requirement for EAB's then footpath trading cannot commence until the safety barriers are installed.

EAB's must be installed to prevent the incursion of road vehicles on the pavement at any proposed site which abuts or is in the vicinity of a road or laneway of any type. If appropriate safe views or incursion prevention cannot be achieved by any applicant, a Permit is to be denied.

Other devices may be permitted at the discretion of Council's Traffic Management Section, upon application and subject to providing equivalent or better protection from vehicular incursion than EAB's.

Barrier design and installation must allow pedestrian access between the units and as far as possible blend in with the physical attributes of the site and subject to Council Design guidelines and colours.

EAB's shall be installed by Council and subject to the permit and or renewal fees or installation fees as specified on the application form and or Council's fees and charges register.

[The EAB's design, colour and specifications will be subject to Council approval.](#)

Authorisations

For the purposes of footpath trading all items shall be moveable and be removed from the footpath when trading ceases. Any item that is intended to be fixed to a footpath, or that permanently overhangs a footpath area requires Council's Authorisation. Examples include:

- a fixed sign
- verandah
- sails
- encroachment by a building
- permanent structures such as screens or planter boxes

Authorisations [are issued under Section 221 of the Local Government Act and](#) are subject to additional fees as specified on the application form and Council's fees and charges register.

Development Controls

In addition to requiring consent under the Local Government Act, the establishment of an outdoor dining area may require Development Approval (both Provisional Development Plan Consent and/or Provisional Building Rules Consent) under the Development Act 1993.

If the establishment of an outdoor dining area constitutes a change in land use, it requires Provisional Development Plan Consent. The erection of some fixtures such as blinds, other awnings and screens may also constitute building work for the purposes of the Development Act and therefore will require approval.

Any application for a change in land use and/or building work will be considered in accordance with the Development Plan policy of the Council and will address such matters as the provision of car parking, pedestrian access, and safety for patrons, pedestrians and motorists.

All applications are referred to Development Services for assessment.

Car Parking Fund Contributions

Footpath trading applications relating to dining and the addition of tables and chairs to a business requires the application to be considered by Development Services. The increased seating capacity has an impact on the required car parks for that business and dependant on their locality may trigger a payment to the car parking fund.

The car parking contribution fund fees are as specified on the application form and or Council's fees and charges register.

Liquor Licensing

The consumption of liquor is not permitted without the relevant approvals from Consumer and Business Services. Please refer to the following site: (<https://www.cbs.sa.gov.au/liquor-and-gambling-licenses/apply-for-a-new-liquor-or-gaming-licence/>)

Approval for the consumption of liquor will not be granted in the Permit without approval from Consumer and Business Services.

Noise

The impact of noise from foot path trading can be a concern where the activity is proximity to residential premises and trading is occurring outside of common trading hours. The trading hours may be addressed thorough development approvals, however the permit conditions can also address and restrict hours of activity if noise nuisances are identified once trading begins.

Subject to Development Planning and other controls along with the conditions of the permit, if footpath trading times are proposed outside of 8am to 7pm and the business is within 50 metres of residential premises, the application will require notification of any affected residential premises before the permit can be considered. The notification process will be conducted before the application for a permit can be considered and subject to additional fees (as specified on the application form and Council's fees and charges register.)

Noise nuisances can also be subject to the provisions of the Local Nuisance and Litter Control Act 2016.

Smoking

From 1 July 2016, smoking was banned in outdoor dining areas in South Australia under section 52 of the Tobacco Products Regulation Act 1997 and this includes outdoor dining areas. The new law is designed to protect the community from exposure to potentially harmful tobacco smoke and increase the comfort and enjoyment of outdoor dining areas for all patrons.

Smoking relates to any ignited tobacco product or non-tobacco product and includes smoking from a cigarette, pipe, water pipe or any other smoking device. Water pipes are also known as shisha, sheesha, hookah, nargila, argileh, hubble bubble and goza.

Dedicated smoking areas can be established for the purposes of smoking and drinking, including coffee, and or the consumption of snack foods. Snack food includes foods such as potato crisps, nuts, chocolate bars and pre-packaged biscuits. Sandwiches and hot chips are not considered to be snack food.

Any smoking area must be physically separated from the dining area and not create a nuisance to pedestrians and other footpath trading areas.

The use of water pipe or any other similar smoking device, alternatively known as shisha or sheesha and other names, are not permitted on footpath trading areas due to the excessive smoke created and usual long term duration of the activity. This can result in potential impacts on health and nuisance impact on pedestrians and others in general proximity to the area.

Approval for a dedicated [cigarette](#) smoking area [\[other than water pipe or any other similar smoking device\]](#) is subject to site specific assessment by officers and any identified or potential impact [or nuisance](#) on adjoining properties or the pedestrian zone. Public consultation may be required for any dedicated smoking area [with priority given to non-smoking environments](#).

Dogs in Outdoor Dining

Under the provision of the Food Act 2001 and Food Safety Standards (standard 3.2.2 Clause 24) a food business must permit an assistance animal in areas used by customers, and a food business may permit a dog that is not an assistance animal to be present in an outdoor dining area.

Dogs that are not assistance dogs should be:

- (a) under the control of a person who is present in the outside area;
- (b) restrained by a lead that is not more than 2 metres in length;

Public Infrastructure

A minimum clearance of 1000 mm, or less if permitted by Council, shall be provided from any existing street furniture or other infrastructure on or adjacent to the footpath, including but not limited to seats; benches; bollards; litter bins; bike racks; post boxes; telephone boxes; service pits; public transport stops/taxi ranks; public transport shelters; loading zones; parking meters; traffic signal boxes; fire hydrants and other emergency assets; pedestrian crossings; and street trees or shrubs.

Application may be made to Council for the relocation, at the applicant's cost, of Council maintained seats, benches or bicycle racks, in association with an application for a permit for footpath trading.

Any request for relocation of seats, benches or bicycle racks, must be accompanied by a plan showing the site for the proposed relocation of the street furniture item and a letter of no objection from the owner and occupier of the premises outside which the item is proposed to be relocated.

Service Authority Works and Special Events

Service authorities or Council may require the use of a site to undertake works or maintenance works. When this, or any parade, festival or special event is scheduled, it will be normal practice to give at least seven days notice of the requirement to remove any item from the footpath.

In an emergency or where maintenance works are considered to be urgent, sites may need to be cleared immediately.

Permit holders will be responsible for the movement of all items and any associated costs.

Evidence of a Permit

Any business that is permitted to undertake a commercial activity on the footpath adjacent to that business must be able to produce a copy of the current permit to an Authorised Officer upon request.

The permit may include the permit number, date of issue and a summary of the items permitted to be placed on the footpath.

Reinstatement

Any damage to footpaths or alterations undertaken must be reinstated by the permit holder at their costs and to Council's specifications or the permit holder will be responsible for reimbursing Council for any reinstatement works.

General Conditions for Footpath Trading

Please refer to Attachment 1 of this Policy

Administration of the Policy

Applying for a Permit

Pursuant to Section 222 of the Local Government Act 1999, a permit is required for the use of streets, roads and road related areas (footpaths) held in Council's care for use for business purposes. Local government is also empowered to make the granting of a permit subject to conditions.

1) Apply

To apply for a permit an applicant must complete and sign the Footpath Trading Permit application form.

2) Assess

Staff undertake assessment, consult with the applicant and refer and consult with other Sections of Council and process the application. Other relevant areas include:

- Traffic Management – to assess EAB requirements and any other traffic management issues,
- Technical Services Design and Civil Infrastructure Construction – to assess the design and install of EAB's, and the costs for installation and to schedule install if approved.
- Community Services to assess Disability Access issues for applications that do not meet required parameters,
- Property Services – only if fixed items are proposed to assess any requirements for authorisations and implement that process with the applicant,
- Development Services – all applications are referred for assessment against previous approvals.
- Environmental Health - only for new applications associated with new food business start-ups or change of ownership.

In considering an application for Footpath Trading, Council shall have regard to the requirements under the Local Government Act, the specific and general requirements specified in this Policy and the specific local conditions relevant to the application, including

- a) the width of the footpath;
- b) the location of existing trees, street furniture or other public infrastructure;
- c) proximity to major roads, speed of road, disabled parking bays, loading bays, loading zones, clearways, and parking angles;
- d) the likely number of pedestrians, at particular times of day; and
- e) the location of nearby residences.

2) Notification

Before a permit is granted for the first time, or after a change of business use, Council may give notice of the application to persons who may be affected by the granting of a permit which will entitle those persons to make a submission which must be considered by Council before a determination is made on the application.

3) Issue Invoice and Permit or Refusal and Cancellation

Invoice and Permit - Staff will issue an invoice for all required fees and upon payment and presentation of insurance documentation, issue the permit.

Council may issue a permit in accordance with an application as submitted, or with modifications and with or without special conditions.

Refusal or Cancellation - Council may refuse to issue a permit, refuse to modify the conditions of an existing permit or cancel a permit if:

- a) any requirements of this Policy are not met;
- b) the sight and access of drivers, cyclists or pedestrians is interfered with so as to create a hazardous situation;
- c) there is likely to be detriment to the amenity of the area,
- d) personal safety is likely to be compromised,
- e) any existing permit conditions have not been complied with and there has been a failure to comply with any notice served, or
- f) the permit holder fails to maintain the stipulated minimum public liability insurance.

Fees and term

Fees and charges for footpath trading are determined by Council annually and provided in the fees & charges register and updated on the application form. Fees are subject to review and change annually or more frequently if so required and approved by Council.

Unless otherwise specified on the permit, the permit term shall expire one year from the date of issue, except in those instances where it is withdrawn by Council prior to the expiry date.

Permits are not transferable. A new permit must be obtained if the proprietorship of a business changes. This may not require any additional fees until such time that the permit is due for renewal.

A permit expires if the permit holder ceases to maintain the appropriate public liability insurance or to meet any of the conditions of the agreement and this Policy.

Enforcement of Policy and Legislative Provisions

Council authorised officers will check compliance with this Policy and the conditions of relevant permits on a regular basis.

Upon detection of a breach of the Footpath Trading Policy or a specific condition of any permit issued, Council will take action in accordance with the provisions of the Local Government Act as applicable.

Enforcement action may include a verbal direction or written notice to comply, an Infringement Notice or Council may impound the items on the footpath that do not comply this Policy and the conditions placed on any permit.

Insurance

The applicant/permit holder shall maintain a public risk insurance policy from a reputable insurer for the minimum amount of Twenty Million Dollars (\$20,000,000.00) per claim or such other amount as the Council may reasonably require from time to time. Such policy must indemnify the permit holder for any injury, loss or damage to other persons or property arising directly or indirectly from any activity associated with the permit holders footpath trading

The applicant/permit holder must not commence any activity on said footpath/road until the applicant has provided to the Council a copy of the public risk insurance policy (a Certificate of Currency) and the permit has been issued.

The Permit holder must maintain this insurance for the duration of the permit.

F - LEGISLATION

1. Local Government Act 1999
2. Disability Discrimination Act 1992
3. Australian Standard 1428 (Parts 1 and 2) Design for Access and Mobility.

G - REFERENCES

1. Local Government Association – Outdoor Dining Background Paper
2. Adelaide City Council Outdoor Dining Guidelines 2014
3. City of Holdfast Bay Outdoor Dining Policy
4. Banyule City Council Footpath Trading Policy
5. City of Yarra Footpath Trading Policy
6. <http://www.humanrights.gov.au/>

H - ASSOCIATED PROCEDURES

1. City Of Salisbury Application for a Permit to Use a Public Road for Business Purposes.

Document Control

Document ID	Footpath Trading Policy
Prepared by	John Darzanos
Version	0.1
Document Status	Draft
Issue Date	14/02/2019 02/01/201902/08/2018 TBD

Attachment 1**General Conditions for Footpath Trading Permits****Encroachments**

- 1) A setback of 0.5m is required from each side boundary of premises when there are adjoining premises that have footpath trading in order to ensure a 1.0m wide access way is maintained between premises from the kerb to the Pedestrian Zone. Where there is no additional footpath trading or there is sufficient alternate access then the trading can be up to the adjoining premises boundary.
- 2) Footpath Trading Activity Zone cannot encroach in front of adjoining premises without consultation with the adjoining property owner and/or tenants and the approval by Council within the permit.
- 3) Encroaching trading activity zone may result in permits for an area for more than one party and may be subject to special conditions.
- 4) Any change in property or business ownership or requests for footpath trading from the affected property owner will require additional consultation and the permit is subject to review and amendment.

Outdoor Eating

~~4)5)~~ Any chairs, tables and ancillary items associated with outdoor eating:

- a) may only be placed in the Trading Activity Zone of the footpath;
- b) may only be placed on the footpath during the normal trading hours of the business to which they relate, unless otherwise approved by Council;
- c) must be of a suitable design and in particular:
 - i) must be of a style, appearance, materials, finishes and colours which are of a high standard, attractive, durable, shatterproof, unobtrusive and complement the character of the streetscape.;
 - ii) must be uniform in style and design for each premises;
 - iii) must contrast with their background to assist people with vision impairment;
 - iv) must be portable, yet sturdy and windproof.

~~2)6)~~ The permit holder must:

- a) maintain the footpath eating area in a clean and tidy condition at all times and immediately clean up any spills and litter;
- b) where smoking is permitted, supply each table outside with a wind-proof ashtray at all times and be responsible for cigarette ash, butts and any other litter generated by patrons of a footpath eating area;
- c) ensure that patrons do not move tables and chairs or ancillary items from their positions and obstruct the Pedestrian Zone;
- d) ensure that patrons do not allow pets, prams or any other personal items to obstruct the Pedestrian Zone;
- e) ensure that food and beverages are not served to patrons standing on the footpath within the Pedestrian Zone;
- f) ensure that no noise or other disturbance creates a nuisance or causes detriment to the amenity of the neighbourhood; and
- g) be responsible for reimbursing Council for any reinstatement works as a result of damage to footpaths or street fixtures and furniture.

- | ~~3~~7A condition may be placed on a permit requiring a permit holder to place written reminders to patrons in the outdoor eating facilities on the footpath, regarding the above responsibilities, if deemed appropriate by an Authorised Officer.
- | ~~4~~8Liquor is not to be sold, consumed or served within the Trading Activity Zone unless approved by Consumer and Business Services.
- | ~~5~~9Any premises where alcohol is served or consumed on the footpath must have its liquor license endorsed with the footpath as part of the "licensed area" on the liquor license for those premises.
- | ~~6~~10 Waiting staff at premises with outdoor eating facilities on the footpath must facilitate free access by all footpath users within the Pedestrian Zone and give all footpath users priority right of way.
- | ~~7~~11 Separate cash registers, counter facilities or storage facilities are not permitted on the footpath.
- | ~~8~~12 No food or drink is to be prepared, cooked or heated in the footpath eating area except in accordance with any permit granted for temporary food premises.
- | ~~9~~13 The handling and serving of food and drinks to patrons within the footpath eating area must be conducted in accordance with the requirements of Food Act and Food Safety Regulations and Council's Public and Environmental Health Services Section.

Goods

- | ~~10~~14 Any goods for display:
 - a) may only be placed in the Trading Activity Zone of the footpath;
 - b) the viewing and selection of goods on display, and the positioning of any trolleys must also be conducted within the trading activity zone
 - c) may only be placed on the footpath during the normal trading hours of the business to which they relate;
 - d) must not exceed a height of 1500 mm, and the width shall allow for the viewing and selection of goods on display, and the positioning of any trolleys within the Trading Zone,
 - e) must be kept in a clean and tidy state, including the area around the display; and
 - f) if a display of foodstuffs, this must comply with the requirements of the Food Act and Council's Public and Environmental Health Services Division.
- | ~~11~~15 Goods (except furniture) must be displayed on stands approved by Council, which in particular:
 - a) must be of a style, appearance, materials, finishes and colours which are of a high standard, attractive, durable, shatterproof, unobtrusive and complement the character of the streetscape;
 - b) must not have sharp, pointed, or jagged edges, corners or protrusions;
 - c) must be stable and able to withstand adverse weather conditions;
 - d) must be secured in a manner that ensures that adverse weather conditions will not create a risk for any footpath users, property or passing traffic but may not be affixed to any footpath, building, street furniture, pole or other structure;
 - e) must contrast with their background to assist people with vision impairment;
 - f) must not comprise any movable parts (eg. spinning, flapping);
 - g) must not be illuminated externally or internally; and
 - h) must not cause any damage to the footpath surface.
- | ~~12~~16 Goods for display will not be permitted:
 - a) where access to a loading zone or disabled parking bay will be impeded;
 - b) where they will cause difficulty to any footpath users, including pedestrians and people exiting or accessing parked vehicles or the footpath;

- c) to overhang either the kerb or Pedestrian Zone.

Moveable Advertising Signs

~~13~~17 In addition to the requirements of By Law 2 Moveable Signs, a footpath trading permit relating to moveable signs shall also comply with the following requirements:

~~14~~18 One movable advertising sign only may be displayed for each street frontage of a business.

~~15~~19 Any movable advertising sign:

- a) may only be placed in the Trading Activity Zone;
- b) may only be displayed outside of the frontage of the business to which it relates;
- c) must not exceed 600 mm in width or 900 mm in height;
- d) must be secured in place by a means that is not reliant on, or physically tied to any infrastructure or trees. The means by which these signs are to be secured must not extend beyond the perimeter of the permitted sign and must be of a type approved by Council. Any securing device is to be removed with the sign in accordance with permitted display times;
- e) may only be displayed during the normal trading hours of the business to which it relates;
- f) must contrast with its background to assist people with vision impairment; and
- g) may only feature the business name or service provided by the business to which it relates.

~~16~~20 Inflatable signs; portable electric signs; illuminated, revolving, spinning or flashing signs; flags and banners are prohibited.

~~17~~21 The display of a movable advertising sign is not permitted where a business is conducting any other commercial activity on the footpath.

Outdoor Speakers/Amplification equipment

~~18~~22 Permission will be required to affix speakers to a building or veranda.

~~19~~23 Any sound or noise produced must not be annoying or cause a disturbance, which in the opinion of Authorised Officer, creates a nuisance or causes detriment to the amenity of the neighbourhood.

~~20~~24 No sound amplification equipment or jukeboxes may be utilised in the footpath area.

Outdoor Heaters

~~21~~25 Any outdoor heater:

- a) must be associated with the use of the footpath for an outdoor eating facility;
- b) may only be placed or fixed in the Trading Activity Zone; and
- c) must comply with all relevant safety standards

Umbrellas

~~22~~26 Any umbrellas:

- a) may only be placed in the Trading Activity Zone;
- b) must be not less than 2100 mm high at the lowest point other than the pole and must not protrude over the kerb or into the pedestrian zone;
- c) Any moveable item that protrudes into the pedestrian zone must not be below a height of 2200mm.
- d) must be weighted and/or secured so as not to pose a safety hazard.

~~23)~~27) At times when it is raining, water from umbrellas must not be discharged within the Pedestrian Zone.

~~24)~~28) Umbrellas may be secured to the footpath by a lock-in device. Lock-in devices will only be approved where the device lies flush with the footpath when the umbrellas are not displayed. Applications for approval for lock-in devices should be made to Council Property Services. Plans and specifications of the items will be required to be lodged with Council prior to any umbrella being placed with a lock-in device.

Barrier Screens

Barrier screens include:

- low barrier screens, which are predominantly made of canvas or vinyl;
- high barrier screens, which are usually made of clear material such as safety glass or heavy duty plastic and are fitted to the footpath by lock-in devices; and
- full-length awnings/blinds, which are commonly attached from a verandah to the footpath.

The form and construction of any barrier screen must be suitable for its functional requirements and location, taking into account prevailing weather conditions.

~~25)~~29) Low Barrier Screens

- a) must be associated with the use of the footpath for an outdoor eating facility;
- b) may only be placed in the Trading Activity Zone;
- c) may be no more than 1200 mm high;
- d) may only be in place during the normal trading hours of the business with which they are associated;
- e) must be placed so that the screens are stable and secure or weighted so that they will not be moved by patrons or prevailing weather.
- f) must contrast with their background to assist people with vision impairment;

~~26)~~30) High Barrier Screens

- a) must be associated with the use of the footpath for an outdoor eating facility;
- b) may only be placed in the Trading Activity Zone;
- c) may only be in place during the normal trading hours of the business to which they relate;
- d) must be at least 1500 mm high (except where the premises are located on corner), be transparent and constructed of safety glass or heavy-duty plastic;
- e) must have a 75 mm wide band 1000 mm above the ground that contrasts with its background to provide a visual guide for all pedestrians;
- f) must be fitted to the footpath with a lock-in device, but be removable. Applications for approval for lock-in devices should be made to Council Property Services.

~~27)~~31) High barrier screens must be removed after the normal trading hours of the business with which they are associated in order to facilitate street cleaning by vehicles.

~~28)~~32) High barrier screens may not be used for advertising other than the name of the business or unless otherwise approved.

~~29)~~33) Lock-in devices will only be approved where the device lies flush with the footpath when the barriers (or part thereof) are not in place. Applications for approval for lock-in devices should be made to Council's Property Services. Plans and specifications of the items will be required to be lodged with Council prior to any screen being placed with a lock-in device. Please refer to the Section on Authorisations for further information.

| ~~30~~~~34~~ Permanent screens will require a separate application for authorization under Section 221 of the Local Government Act from Council's Property Services Section. Please refer to the Section on Authorisations for further information.

| ~~31~~~~35~~ Where the premises are located on a corner an application for screen will be assessed by Council's Traffic Management Section with regard to line of sight and a lower screen may be required.

| ~~32~~~~36~~ Full Length Awnings/Blinds

- a) Full length awnings or blinds may only be placed in the Trading Activity Zone.
- b) Full length awnings or blinds may only be fitted subject to the approval and requirements of Council's Development Services Section and Council's Property Services Section.

Planter Boxes

| ~~33~~~~37~~ Planter boxes:

- a) may only be placed in the Trading Activity Zone and plants shall not extend beyond that zone;
- b) may only be in place during the normal trading hours of the business to which they relate;
- c) must provide a positive contribution to the visual amenity of the street;
- d) must not exceed 1200 mm in height above the footpath level (including plants);
- e) must be well maintained with healthy plants of suitable form, hardiness and species
- f) must not be watered in a manner which results in the growth of mosses, algae or slime moulds; and
- g) must be free of litter, including cigarette butts.
- h) must contrast with their background to assist people with vision impairment
- i) Planter boxes may not be used for advertising purposes.

Cleaning

| ~~34~~~~38~~ The permit holder is responsible for maintaining the trading area in a clean and sanitary condition at all times, and responsible for cleaning the footpath and paved surfaces and maintaining the area in a good state of cleanliness.

| ~~35~~~~39~~ Some areas may only be cleaned by Council, and if soilage is attributed to to the Footpath Trading then the costs may be attributed to the permit holder.

All tables, chairs, goods, displays, movable advertising signs and ancillary items must be removed and the footpath kept clear to facilitate any additional Council cleaning at times required by Council

Safety

| ~~36~~~~40~~ All items placed on the footpath shall be stable, must not pose a hazard to pedestrians or road users and shall not:

- include sharp or protruding items;
- be capable of shattering;
- include moving or oscillating parts;
- include reflective items that pose a risk to traffic; or
- be located where pedestrian or driver sightlines will be obstructed.

Lighting

| ~~37~~~~41~~ All foot path trading activities that occur at times of low lighting conditions or at times after sunset may require the provision of additional lighting to ensure the approved area is adequately lit and all areas visible to users, pedestrians and road users.

| ~~38~~~~42~~ Additional lighting requirements will be provided by the permit holder and shall comply with any requirements or conditions by Council.

| ~~39)43)~~ If an approved footpath trading area cannot provide sufficient lighting then the area may not be suited to trading at times of low lighting conditions or at times after sunset and or the trading times may be restricted to daylight hours.

Other Legislative Compliance Requirements

| ~~40)44)~~ A footpath trading permit does not exempt the permit holder from compliance with any other legislative provision that may be applicable to their trade or operations.

| ~~41)45)~~ It is the responsibility of the permit holder to ensure compliance with any other legislative provisions.



Footpath Trading Permit Fees

Applications for Footpath Trading Area Permits will incur fees comprising of the following:

1. Footpath Trading Permit Fee.
2. Energy Absorbing Bollard Fee (where applicable).
3. Notification Fee (where applicable).

1. Footpath Trading Permit Fee

The Footpath Trading Permit Fee is applicable to all applications and is an annual fee based on the space occupied by the event / activity. A reduced fee is available for events of 5 days or less and for charity / community groups. The fee is payable on issue of an invoice prior to the granting of the permit.

Permit Category		Footpath Trading Permit Fee
Business/Commercial Footpath Trading Annual Permit Fee	=	\$80 (minimum fee) or \$10 per square metre of trading area ¹ (whichever is the greatest), capped at \$200.
Business/Commercial Casual Rate (Approval for up to 5 days ²)	=	\$20
Charity/Community Group Footpath Trading Annual Permit Fee	=	[\$80 (minimum fee) or \$10 per square metre of trading area ¹ (whichever is the greatest), capped at \$200] X 50%
Charity/Community Group Footpath Trading Permit Fee Casual Rate (Approval for up to 5 days ²)	=	\$10

2. Energy Absorbing Bollard Fee

Energy Absorbing Bollards (EAB's) must be installed where determined by Council, in accordance with Council's requirements.

A cost share fee structure applies and the applicant is liable to a one-off fee for the supply and installation of EAB's discounted by the approved rate as approved by Council. The fee is payable on issue of an invoice prior to the granting of the permit. Note that the EAB fees also apply to alternate safety barriers as approved by Council.

$$\text{EAB Fee} = \text{\$Actual costs of EAB's (supply and installation) x (50\% rebate*)}$$

(*or as otherwise approved by Council)

3. Notification Fee³

Where footpath trading times are outside of 8am to 7pm and the footpath trading area is within 50 metres of residential premises, a fee is payable for the notification of the affected residential premises. The fee is payable before the notification is undertaken. The fee is not applicable when residential developments occur within proximity of an existing business that has an existing footpath trading permit.

$$\text{Notification Fee} = \$100$$

¹ The trading area is the space occupied for the event / activity, rounded to the nearest 0.5m².

² Where no EAB's are required.

³ Does not apply to casual events / activities.

Submission received on Draft Footpath Trading Policy

Safety Barriers	Respondent 1	Respondent 2	Respondent 3
QUESTION: What is your preferred model for funding EAB's and why?	Option 2. It will be an expense that should be shared with the trader and the council. It is beneficial for the traders to have a permit but also for the council to have a lively city and businesses trading. It would be ideal if it can incorporate the payment plan into 5 years so the business is not hit with the full cost at once. Option 4 is not ideal as it might be \$100 now but in 10 years the price will be double. This is my experience with the council dealings for example the food inspections, it went up by 35% from 2016 to 2017. I would hate for the council to continue to charge \$100 + any cost fluctuations and then make money. I think the council should limit the price charged to the traders up to the cost incurred and nothing further. No revenue raising to occur once the bollard have been paid for.	Option 4 and Option 2 - We recommend bollards as part of streetscape program, and will encourage more footpath trading, and hopefully outdoor dining venues to open over time	We believe that council should fund cost of EAB's.
Moveable Items			
QUESTION: Do you have any concerns with only moveable items approved as part of footpath trading?	We currently have only items that are moveable. We have asked regarding having fixed awnings or sails, but the annual cost is way to extravagant that it's not an option.	No, this allows for easy cleaning of the streets and footpaths	No. Fixed items should also be included as part of this permit.
Noise			
QUESTION: If you have or are considering footpath trading and it is within 50 metres of residential premises, is the requirement to consult with residents supported? Please explain why or why not? Also, do you have any feedback on the	Yes we currently have a footpath trading permit. We trade in John St and I know that there is talk to put residential apartments in John St. If this was the case, we would be impacted and may have a situation where we would be paying for this. As a trader, we deal with way too many administrative costs and having this as an added cost is just unfortunate. I do not agree with the charge.	N/A but believe the consultation fee is not unreasonable	Yes, We should not bear this cost as <i>this business</i> has been at this location for 9 years with the existing polices. Any changes should be borne by Council.

\$100 consultation fee?			
Smoking			
QUESTION: Should Council ban these alternate forms of smoking such as water pipes? Please explain why or why not.	There could be a limit as to only a few businesses having that permit. It is a business model for a few businesses and there is a demand for it. Many if there is a proposed number of businesses who can take out the licence and once limit is reach no other businesses can obtain that class of water pipe permit.	Not if specifically relevant to the business or demographic of the business	Yes, no objection.
QUESTION: Should Council consider banning all forms of smoking on footpath including cigarettes? Please explain why or why not.	We have outdoor dining and have inforced the non smoking rule. We have noticed other traders still continue to serve food and drinks and have smoking facilities. So unsure who is monitoring this. For us, its best not to have any smoking next our premises. Having designated areas where people can sit and smoke for example in between Money3 and NAB on John St. That works well and see it used daily.	Conceptually this is great, but many employees smoke and it would be impossible to enforce. More encouragement for smokers to use butt bins and keep the area tidy.	Yes, no objection.
Fees			
QUESTION: Is the proposed fee structure which is based on a square metre rate of trading area an equitable approach to fees? Please explain why or why not.	No its not. The Annual Fee should incorporate an amount of square metre (say 5 square metres) otherwise, the \$80 will be a cost for Administration only. You then want to charge bollard fees and more admin fees for noise costs if your business is close of residential costs. The change will be a massive hike in fees for business. Also it appears that option 4 have been decided already as part of this.	Trading area capped at \$150, with no fee increase in the 2018/19 financial year, introduce at the commencement of 2019/20, more information on the Charity/Community Group fee would be appreciated.	Object – unfair – not equitable to be charged based upon square meterage. Mawson Lakes does not encounter foot traffic.
QUESTION: Do you have any other comments or concerns regarding the draft footpath trading policy?	How long will the proposed fees be capped? It would be great if it only went up by CPI and nothing else. The hike in fees from council go up way to much. If there is no capping in the cost increases it could mean that businesses will be paying 50% to 100% more in 10 years. I would hate Option 4 of charging \$100 per	Seems a fair approach for Council, taking into account that increasing costs will always be received negatively (the nature of the beast)	Concern – Council does not support small business unlike overseas, Syd, Melb where cosmopolitan ambience is in existence.

	<p>bollard to be approved as if this is an ongoing fee, it would be to recoup for costs of existing bollard, but I would like it for the council to wear some of the costs. Traders are important to the continue plan of the City of Salisbury, you need us to trade and we need the council to provide the necessary services as traders. This will be a deterrent for a lot of new business that would be wanting to come to Salisbury. Also would be great if it was stated how much the bollard costs.</p>		
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ITEM	3.3.2
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Review of Food Act 2001 - Inspection Fees Policy
AUTHORS	John Darzanos, Manager Environmental Health & Safety, City Development Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.4 To ensure informed and transparent decision-making that is accountable and legally compliant
SUMMARY	Council Policies are subject to bi-annual reviews and re-endorsement by Council. The following report presents the Food Act Inspection Fees Policy for consideration and re-endorsement.

RECOMMENDATION

1. The Information be received.
2. That the Food Act 2001 – Inspection Fees Policy as set out in Attachment 1 to this report (Item No. 3.3.2, Resources and Governance Committee, 18/02/2019) be endorsed.

ATTACHMENTS

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

1. Food Act Inspection Fees Policy 2019
2. Food Act Inspection Fees Policy 2019 - Tracked Changes

1. BACKGROUND

- 1.1 Council's Policy Framework provides for Council Policies to be reviewed within 12 months of a general election and two years thereafter.
- 1.2 The Food Act 2001 - Inspection Fees Policy (the 'Policy') was last endorsed by Council in December 2016 and is now due for review.

2. REPORT

- 2.1 The policy has been reviewed with several amendments being made to the Policy and identified in the tracked changed version attached to this report. The changes are discussed below.

Frequency of Inspections (Section D)

- 2.1.1 The amendment to the Inspection Frequency table reflects the actual inspection frequency of P2 type premises which include takeaways, and express order ready to eat foods. These premises are highly represented in the Council area and are high risk as they receive, store, handle and manufacture ready to eat foods, which include raw and cooked products.

- 2.1.2 The maximum inspection frequency has been adjusted to reflect the desired inspection for poor performing premises. As a consequence, the table has been simplified with the deletion of 5th column which is not now required.
- 2.1.3 The table now also includes the Priority 1 (P1) High Risk Bakery - process/manufactures category which is a classification recognized by SA Health and is applicable to bakeries that have products that contain perishable high risk fillings (including frozen bakery products).

Changes of Frequency (Clause 11)

- 2.1.4 The amendments to the policy in this clause recognize the use of both the Australia Food Safety rating system and the South Australian Food Safety Rating Scheme which are utilized to undertake inspections. The previous policy did not include the Food Safety Rating Scheme because as it was in a trial phase and it has now been acknowledged and recognized as an ongoing program by SA Health.
- 2.1.5 The amendments also ensure the levels on inspection from either method of inspection are consistent.

Definitions (Section E)

- 2.1.6 Additional definitions have been included to clarify the inspection results and inspection systems utilized.

Food Markets (Clause 21)

- 2.1.7 In the last policy review a fee provision was provided to allow for Markets to establish a single fee for the entire market. This fee provision has been removed from the amended policy as there was no uptake by market organizers for this fee and the restrictions imposed by current regulations make it difficult to implement. The existing 50% rebate is continued for individual market stall and vans.

3. CONCLUSION / PROPOSAL

- 3.1 The Food Act 2001 – Inspection Fees Policy as contained within Attachment 1 has been reviewed and is recommended to Council for endorsement with the suggested amendments.

CO-ORDINATION

Officer: Executive Group
Date: 11.02.19



Food Act 2001 - Inspection Fees

Policy Type:	Policy		
Approved By:	Council	Decision No:	2178, 2009/1731, 2014/0050, 2016/1511, xxxx/2019
Approval Date:	26 June 2006	Most Recent Approval:	26 February 2019
Review Date:	February 2021	Internal Reference No.:	
Department:	City Development	Division:	Environmental Health and Safety
Function:	11 - Health Management	Responsible Officer:	Manager Environmental Health and Safety

A - PREAMBLE

1. Regulation 13 of the *Food Regulations 2017* (made under the *Food Act 2001*) provides for Councils as enforcement agencies to charge an inspection fee for the carrying out of any inspection of any premises or food transport vehicle, which is reasonably required in connection with the operation or administration of the Act.

B - SCOPE

2. This policy applies to premises and or food transport vehicles, which undertake the sale of food as prescribed in the Food Act 2001. The inspection fee must not exceed the reasonable costs of the enforcement agency with respect of the inspection, and in any event must not exceed the maximum prescribed.
3. Fees are reviewed and amended annually and published in Council's Fees and Charges and also subject to legislative changes and amendments.

The current maximum fees for inspections set under the Food Regulations 2017, Schedule 1 and adopted by Council are:

- In the case of a small business (where not more than 20 people {full time equivalents} are engaged in handling food) \$121.00* (GST exempt fee), and
- In any other case - \$300* (GST exempt fee),

(*Note: Fees have been adjusted in accordance with legislative changes at the time but may be subject to further change as amended by the Food Regulations 2017)

4. Where the inspection is levied and performed by the Council, it will be exempt from GST as the fee does not constitute consideration for GST purposes. This position is confirmed in Class Ruling 2013/41 where the Commissioner sets out the GST treatment of the following inspection fees. Exempt - paragraph 81-15.01(1)(f) of the GST Regulations.

5. Inspection fees may be recovered from the occupier of the premises or from the owner or operator of a food transport vehicle (as the case may be) as a debt due to the Council.
6. A fee shall be imposed for each routine inspection undertaken, for every premise, except in the circumstance when:
 - Multiple business are owned by one proprietor; and
 - They are registered under 1 ABN and
 - The businesses are located next to each other; and
 - The inspection for each site is carried out at the same time.
7. This policy has been developed in line with the model policy from the Local Government Association and SA Health.

C – POLICY PURPOSE/OBJECTIVES

8. This Policy depicts the circumstances and provision in which Council classifies and charges a food premises for an inspection.

D - FREQUENCY OF INSPECTIONS

9. The Food Business Risk Classification System endorsed by SA Health is utilised to allocate priority classifications for businesses and frequency of inspections. The frequency may be revised based on level of compliance.
10. Business risk ratings are based on the Australian New Zealand Food Authority Food Safety Priority classification system. In 2007, the Food Regulation Standing Committee (FRSC) endorsed the Risk Profiling Framework (the Framework) as the nationally-agreed tool for risk profiling.

The City of Salisbury's risk rating inspection schedule is as follows:

Table: Priority Classification Inspection Frequencies (every x month)

Priority Classification	Starting point	Maximum	Minimum
Priority 1 (P1) High Risk	6	3	12
Priority 2 (P2) Medium Risk	6	3	12
Priority 3 (P3) Low Risk	12	12	24 or No Inspection
Priority 4 (P4) Negligible Risk	12	12	24 or No Inspection
Priority 1 (P1) High Risk Bakery - process / manufactures (This classification is required by SA Health)	6	3	6

11. Changes of Frequency

The frequency of inspection shall be changed under the following circumstances:

- Businesses assessed using the Australian Food Safety Assessment tool:
 - The frequency of inspection shall be increased to the maximum frequency for any business that registers:

- 2 consecutive unsatisfactory (major non-compliance) inspection results
 - Business on the maximum inspection frequency shall revert to the starting frequency after 2 consecutive inspections with results of either satisfactory or satisfactory (minor non-compliance)
 - The frequency of inspection shall be decreased from starting frequency to the minimum frequency for any premise that registers two consecutive routine inspections with a satisfactory or a satisfactory (minor non-compliance) result.
- Businesses assessed with the South Australian Food Safety Rating Scheme
 - The frequency of inspection shall be increased to the maximum frequency when the businesses receive two consecutive 0 star ratings assessments.
 - Business on the maximum inspection frequency shall revert to the starting frequency after 2 consecutive inspections with results of 4 star rating or above ratings
 - The frequency of inspection shall be decreased from the starting frequency to the minimum frequency if the business receives two consecutive 5 star rating assessments.
- The frequency of inspection shall revert to the starting frequency in the circumstance of a new proprietor.

E - DEFINITIONS

- "*Community and charitable organisation*" means any group that does not provide financial gain to any members.
- "*Negligible risk business*" means a business that handles only nominal risk foods, and hence will not warrant frequent or lengthy inspections. Nominal risk foods are foods that are not potentially hazardous and are received and sold in the same packaging.
- "*Priority classification*" means the risk classification allocated to a business as determined by the SA Health Food Business Risk Priority Classification System.
- "*Routine inspection*" means an inspection conducted at a frequency determined by the business' priority classification and performance history based on the Australian Food Safety Assessment system.
- "*Small business*" means a business where not more than 20 people are engaged in handling food (determined as people who work full-time in handling food, or the full-time equivalents of such people).
- "*Mobile food van*" means a van/vehicle used to transport, prepare and offer food for sale directly from the vehicle for immediate consumption.
- "*Food transport vehicle*" means a vehicle used to store and transport food for sale.
- "*Australian Food Safety Assessment (AFSA)*" – is an assessment tool used by Environmental Health Officers to determine a food businesses compliance with the food safety standards.
- "*Food Safety Rating Scheme*" – is an initiative of SA Health which is voluntary and allows Environmental Health Officers to calculate a score based on how well the food business meets the food safety standards. The score is interpreted into a star rating which gives consumers information about how well the business complies.
- "*Minor non-compliance*"- the issue identified is considered to be a breach of the standards, however only of a low risk in nature and can be easily remedied, without a direct risk to food safety or public health.
- "*Major Non-Compliance*" - the issue identified is considered to be a breach of the standards; requiring significant remediation or is of high risk with a direct risk to food safety or public health.
- "*Satisfactory (minor non-compliance)*" – the business has been assessed as generally satisfactory with 2 or less minor non-conformances being identified which have a negligible

- risk and can be easily remedied and are not a direct risk to food safety or public health.
- *Unsatisfactory (minor non-compliance)* – the business has been assessed as generally unsatisfactory with 3 or more non-conformances being identified which have a negligible risk and can be easily remedied and are not a direct risk to food safety or public health.

F - POLICY STATEMENT

12. Routine Inspections

Inspection fees will apply to routine inspections of food premises, mobile food vans and food transport vehicles.

Comments:

Inspection fees will not be applied to food transport vehicles that have been inspected by the Council in whose jurisdiction the food transport vehicle is located. The nature of these businesses requires that they operate across numerous Council areas and hence it is not expected that inspection fees be charged by other Councils that choose to inspect the vans while they are operating in their areas.

Inspection fees will not be applied to mobile food vans and food transport vehicles based in the City of Salisbury and inspected as part of the routine food premises inspection, and those issued a street trading permit.

Mobile food vans operating at Markets will be subject to half fees as specified in clause 10.

13. Routine Inspections for Home Based Food Premises

Inspection fees will apply to routine inspections of home based food premises, mobile food vans and food transport vehicles. A home based food business is one that meets the criteria in the Council's Guidelines for Home Based Food Businesses.

Comments:

The frequency of inspection will be dependent on the Food Business Risk classification, and the results of the Australian Food Safety Assessment. Inspection frequency of food businesses may increase or decrease depending on their performance history. Refer to Table: Priority Classification Inspection Frequencies above

Where the home based food business has been granted approval in accordance with the guideline to use the domestic kitchen and is classified as a Priority 3 – Low Risk or Priority 4 – Negligible Risk then the business will receive a fee equivalent to 50% of the base fees for a small business.

14. Notice or Order Follow Up Inspections and Compliance Inspections

Inspection fees equivalent to 50% of the base fees will apply to follow up inspections of food premises, mobile food vans and food transport vehicles, related to ensuring compliance with an Improvement Notice or Prohibition Order.

Inspection Fees will not be applied if expiation has been issued for the non-compliances or the non-compliance of the Notice or Order.

Inspection fees will not be applied to compliance follow-up inspections related to non-compliance of the Food Act that are addressed with a letter or the AFSA report or verbally.

Comments:

In those instances where non-compliance has occurred (after being given appropriate time frames to rectify problems) and re-inspection is required, Councils as enforcement agencies are provided

with the mechanisms to achieve compliance using the provisions of the Food Act, for example expiation notices, prohibition and/or improvement orders. Notices and orders are utilised to achieve compliance of food safety standards where there are multiple concerns or recurring concerns or serious non compliances. Issuing a Notice or Order requires a follow up inspection and subsequently places greater demand on resources. As the inspection is usually specific in nature the length of inspection is reduced and subsequently the fee is set at 50% of the base fee.

Where a penalty or expiation is imposed for the non-compliance or failure to comply with the notice the inspection fee is not charged as the expiation penalty is considered sufficient.

15. Complaints Inspections

Inspection fees will not be applied to inspections carried out in relation to complaints received from the public as there are other penalty provisions for any complaints or offences that are substantiated.

Comments:

From time to time Councils will inspect food premises as part of complaint investigations. Inspection fees should not be charged in these instances due to complaints often being unsubstantiated and because the ad hoc inspection for this purpose is often quite quick (normal inspection fees would apply to these businesses for standard inspections). Where complaints are substantiated then alternative penalty provisions can apply.

16. Community and charitable organisations

Inspection fees will apply to inspections of food premises, mobile food vans and food transport vehicles operated by listed community and charitable organisations.

Comments:

Inspection fees for community and charitable organisations will not be applied if the following criteria are evident:

- The organisation conducts only fund raising events, or
- The organisation only sells nominal risk foods, or
- The organisation only sells BBQ foods when the food cooked when ordered and sold directly from the cooking surface, or
- The organisation only provides food for free (or donation) to recipients for charitable purposes

For the purpose of this section nominal risk is as described in the definitions and includes, packaged foods sold in the same packaging it has been received.

Other types of activities involving sale of food, conducted by community and charitable organisations may be considered nominal risk and is at the discretion of the Environmental Health Assessment Unit.

17. Local Sporting Clubs

Inspection fees will apply to food premises, mobile food vans and food transport vehicles operated by local sporting clubs.

Comments:

Inspection fees for local sporting clubs will not be applied if the following criteria are evident:

- The organisation is predominately run by volunteers, or
- The organisation conducts only fund raising events, or
- The organisation only sells nominal risk foods, or

- The organisation only sells BBQ foods when the food cooked when ordered and sold directly from the cooking surface

For the purpose of this section nominal risk is as described in the definitions and includes, packaged foods sold in the same packaging it has been received.

18. Negligible risk businesses

P4 Negligible risk premises that are determined to require a regular inspection will have inspection fees applied.

Inspection fees will not be applied to "negligible risk" businesses that are determined to not require inspections as a result of their low risk activities. This includes storage and sale of pre-packaged low risk foods, or warehousing and storage of frozen goods or fresh fruit and vegetables without any further handling..

19. Schools

Inspection fees will apply to inspections of canteen facilities in education institutions.

Comments:

Inspection fees for education institutions will not be applied if the operator of the canteen facility is run by the school /institution and is not for profit,

20. Festivals, fetes and shows

Inspection fees will not be applied to inspections of food premises, food stalls and food vehicles operating at the festivals, fetes and shows that only occur once a year.

Comments:

These events can be one off events or annual events and are in the main conducted by community and/or charitable organisations, and as such should not be imposed an inspection fee.

When events occur on a frequent basis they will be classified as "Food Markets" and fees can apply as per the following section.

21. Food Markets

Inspection fees will apply to inspections of food premises, food stalls and mobile food vans operating at the food markets at a reduced rate equivalent to 50% of the fee for small businesses.

Inspection fees for food markets will not be applied if the following criteria are evident:

- The food premises, food stalls and mobile food vans operating at the food markets are run by a community club or charitable organisations, and is a one off fundraising event conducted only once a year
- The food premises, food stalls and mobile food vans are deemed to be a "*Negligible risk business*".
- The food business is offering for sale pre-packaged, shelf stable and appropriately labelled products that do not require specific storage requirements such as temperature controls.
- The business operating the mobile food van is based in the City of Salisbury and is inspected as part of a routine premises inspection and subject to an Inspection Fee during that inspection.

Comments:

The reduced rate of fees is applicable as many stall holders could be established at numerous locations and be subject to fees from other authorities also. The reduced fee also recognises the transient nature of the stall holders and many will change from time to time.

22. **Businesses with Food Safety Programs**

Inspection fees will apply to food businesses that have food safety management systems and food safety programs in place and are audited by external auditors.

Inspection fees will not be applied if the food safety management system and food safety program is required by legislation and the auditing agency is a Government Authority, including but not limited to:

- Primary Industries and Resources South Australia
- Dairy Authority of South Australia
- SA Health (Department of Health)
- Local Government Food Safety Auditors and the
- The food safety program covers the requirements of the Food Act 2001, Food Regulations 2002 and the Food Safety Standards, and
- Council receives copies of all Audit Reports conducted by the 3rd party auditors.

Comments:

Formal food safety programs are those based on Hazard Analysis and Critical Control Point (HACCP) principals, however they are only legislatively required across several business sectors within SA at this point in time. Many businesses in the manufacturing and processing sector have chosen to implement food safety programs within their organisations for business reasons, or as a proactive measure to help ensure food safety.

Organisations that invest the time, upfront and ongoing costs of a fully audited food safety program may consider the additional cost of a Council inspection fee is unfair/unwarranted, however inspections of these premises are likely to take as long as similar type inspections.

As the enforcement agency Council can inspect such food businesses as part of their general inspection program, however audited premises that fulfil the above requirements with regards to their audits that are required by legislation may be exempted from inspections, and inspection fees.

Premises that have an audited Plan not required by legislation at present are subject to regular inspections and subsequently fees are applicable.

F – LEGISLATION/ REFERENCES

- Food Act 2001
- Food Regulations 2017, Regulation 13
- A New Tax System (Goods And Services Tax) Act 1991 Division 81 - Payments of taxes, fees and changes
- The South Australian Food Business Risk Classification, November 2018, South Australia. Department for Health and Wellbeing

Document Control

Document ID	Food Act 2001 - Inspection Fees
Prepared by	John Darzanos

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Food Act 2001 - Inspection Fees

Policy Type:	Policy		
Approved By:	Council	Decision No:	2178, 2009/1731, 2014/0050, 2016/1511, xxxx/2019
Approval Date:	26 June 2006	Most Recent Approval:	19 December 2016 26 February 2019
Review Date:	December 2018 February 2021	Internal Reference No.:	
Department:	City Development	Division:	Environmental Health and Safety
Function:	11 - Health Management	Responsible Officer:	Manager Environmental Health and Safety

A - PREAMBLE

1. Regulation 13 of the *Food Regulations 2017* (made under the *Food Act 2001*) provides for Councils as enforcement agencies to charge an inspection fee for the carrying out of any inspection of any premises or food transport vehicle, which is reasonably required in connection with the operation or administration of the Act.

B - SCOPE

2. This policy applies to premises and or food transport vehicles, which undertake the sale of food as prescribed in the Food Act 2001. The inspection fee must not exceed the reasonable costs of the enforcement agency with respect of the inspection, and in any event must not exceed the maximum prescribed.

3. Fees are reviewed and amended annually and published in Council's Fees and Charges and also subject to legislative changes and amendments.

The current maximum fees for inspections ~~have been~~ set under the Food Regulations 2017, Schedule 1 and adopted by Council are:

The regulations establish two fees:

- In the case of a small business (where not more than 20 people {full time equivalents} are engaged in handling food) ~~\$1218.00*~~ (GST exempt fee, and
- In any other case - ~~\$300*~~ 294 fee

(Fees are Subject to legislative changes and amendments via Council's Annual Review of Fees and Charges)

(*Note: Fees have been adjusted in accordance with legislative changes at the time but may be subject to further change as amended by the 1 July 2017 by Food Regulations 2017)

- 3.4. Where the inspection is levied and performed by the Council, it will be exempt from GST as the fee does not constitute consideration for GST purposes. This position is confirmed in

Class Ruling 2013/41 where the Commissioner sets out the GST treatment of the following inspection fees. Exempt - paragraph 81-15.01(1)(f) of the GST Regulations.

- | 4-5. Inspection fees may be recovered from the occupier of the premises or from the owner or operator of a food transport vehicle (as the case may be) as a debt due to the Council.
- | 5-6. A fee shall be imposed for each routine inspection undertaken, for every premise, except in the circumstance when:
 - ~~Multiple Two~~ business are owned by one proprietor; and
 - They are registered under 1 ABN and
 - The businesses are located next to each other; and
 - The inspection for each site is carried out at the same time.
- | 6-7. This policy has been developed in line with the model policy from the Local Government Association and SA Health.

C – POLICY PURPOSE/OBJECTIVES

- | 7-8. This Policy depicts the circumstances and provision in which Council classifies and charges a food premises for an inspection.

D - FREQUENCY OF INSPECTIONS

- | 8-9. The Food Business Risk Classification System endorsed by SA Health is utilised to allocate priority classifications for businesses and frequency of inspections. The frequency may be revised based on level of compliance.
- | 9-10. Business risk ratings are based on the Australian New Zealand Food Authority Food Safety Priority classification system. In 2007, the Food Regulation Standing Committee (FRSC) endorsed the Risk Profiling Framework (the Framework) as the nationally-agreed tool for risk profiling.

The City of Salisbury's risk rating inspection schedule is as follows:

Table: Priority Classification Inspection Frequencies (every x month)

Priority Classification	Starting point	Maximum	Minimum	Continued Multiple Non Compliance or continued Serious Non Compliances
Priority 1 (P1) High Risk	6	3	12	3
Priority 2 (P2) Medium Risk	6 12	3 6	12 6	3
Priority 3 (P3) Low Risk	12	12	24 or No Inspection	6
Priority 4 (P4) Negligible Risk	12	12	24 or No Inspection	6
Priority 1 (P1) High Risk Bakery - process / manufactures (This classification is required by SA Health)	6	3	6	

Comment [Cos1]: This column was removed as the maximum inspection frequency covers the required inspections for continued non compliances..

Comment [Cos2]: Based on risk rating P2 type premises which include take aways, and express order ready to eat foods are inspected 12 monthly. This frequency is recommended for these type of premises as they represent the greatest number in the area and highest risks, by receiving, storing, handling and manufacturing ready to eat food from raw to cooked.

11. Changes of Frequency

- | The frequency of inspection shall be changed under the following circumstances:

- Businesses assessed using the Australian Food Safety Assessment tool:
 - The frequency of inspection shall be increased to the next-higher~~maximum~~ frequency for any business that registers:
 - 2 consecutive unsatisfactory (major non-compliance) inspection results ~~5 or more non-compliances not including serious, or~~
 - 1 or more serious non-compliances
 - Business on the maximum inspection frequency shall revert to the starting frequency after 2 consecutive inspections with results of either satisfactory or satisfactory (minor non-compliance)
 - The frequency of inspection shall be decreased from starting frequency to the minimum ~~next-lowest~~ frequency for any premise that registers two consecutive routine inspections with a satisfactory or a satisfactory (minor non-compliance) result. ~~not more than 1 non-compliances (not including serious)~~
- Businesses assessed with the South Australian Food Safety Rating Scheme
 - The frequency of inspection shall be increased to the maximum frequency when the businesses receive two consecutive 0 star ratings assessments.
 - Business on the maximum inspection frequency shall revert to the starting frequency after 2 consecutive inspections with results of 4 star rating or above ratings
 - The frequency of inspection shall be decreased from the starting frequency to the minimum frequency if the business receives two consecutive 5 star rating assessments.
- The frequency of inspection shall revert to the 'starting frequency~~point~~' in the circumstance of a new proprietor.
- For repeated noncompliance the frequency will revert to 3 or 6 monthly depending on priority risk classification as per the above table

Comment [Cos3]: This result aligns with the 0 star ratings as per below and offers consistency in decision making

Comment [Cos4]: This addition recognises the Food Safety rating Inspection process and changes in inspection frequency based on the results of the star rating.

E - DEFINITIONS

- "Community and charitable organisation" means any group that does not provide financial gain to any members.
- "Negligible risk business" means a business that handles only nominal risk foods, and hence will not warrant frequent or lengthy inspections. Nominal risk foods are foods that are not potentially hazardous and are received and sold in the same packaging.
- "Priority classification" means the risk classification allocated to a business as determined by the SA Health Food Business Risk Priority Classification System.
- "Routine inspection" means an inspection conducted at a frequency determined by the business' priority classification and performance history based on the Australian Food Safety Assessment system.
- "Small business" means a business where not more than 20 people are engaged in handling food (determined as people who work full-time in handling food, or the full-time equivalents of such people).
- "Mobile food van" means a van/vehicle used to transport, prepare and offer food for sale directly from the vehicle for immediate consumption.
- "Food transport vehicle" means a vehicle used to store and transport food for sale.
- "Australian Food Safety Assessment (AFSA)" – is an assessment tool used by Environmental Health Officers to determine a food businesses compliance with the food safety standards.
- "Food Safety Rating Scheme" – is an initiative of SA Health which is voluntary and allows Environmental Health Officers to calculate a score based on how well the food business meets the food safety standards. The score is interpreted into a star rating which gives consumers information about how well the business complies.

- "Minor non-compliance" - the issue identified is considered to be a breach of the standards, however only of a low risk in nature and can be easily remedied, without a direct risk to food safety or public health.
- "Major Non-Compliance" - the issue identified is considered to be a breach of the standards; requiring significant remediation or is of high risk with a direct risk to food safety or public health.
- Satisfactory (minor non-compliance) - the business has been assessed as generally satisfactory with 2 or less minor non-conformances being identified which have a negligible risk and can be easily remedied and are not a direct risk to food safety or public health.
- Unsatisfactory (minor non-compliance) - the business has been assessed as generally unsatisfactory with 3 or more non-conformances being identified which have a negligible risk and can be easily remedied and are not a direct risk to food safety or public health.

F - POLICY STATEMENT

~~10.12.~~ **Routine Inspections**

Inspection fees will apply to routine inspections of food premises, mobile food vans and food transport vehicles.

Comments:

Inspection fees will not be applied to food transport vehicles that have been inspected by the Council in whose jurisdiction the food transport vehicle is located. The nature of these businesses requires that they operate across numerous Council areas and hence it is not expected that inspection fees be charged by other Councils that choose to inspect the vans while they are operating in their areas.

Inspection fees will not be applied to mobile food vans and food transport vehicles based in the City of Salisbury and inspected as part of the routine food premises inspection, and those issued a street trading permit.

Mobile food vans operating at Markets will be subject to half fees as specified in clause 10.

~~11.13.~~ **Routine Inspections for Home Based Food Premises**

Inspection fees will apply to routine inspections of home based food premises, mobile food vans and food transport vehicles. A home based food business is one that meets the criteria in the Council's Guidelines for Home Based Food Businesses.

Comments:

The frequency of inspection will be dependent on the Food Business Risk classification, and the results of the Australian Food Safety Assessment. Inspection frequency of food businesses may increase or decrease depending on their performance history. Refer to Table: Priority Classification Inspection Frequencies above

Where the home based food business has been granted approval in accordance with the guideline to use the domestic kitchen and is classified as a Priority 3 – Low Risk or Priority 4 – Negligible Risk then the business will receive a fee equivalent to 50% of the base fees for a small business.

~~12-14.~~ **Notice or Order Follow Up Inspections and Compliance Inspections**

Inspection fees equivalent to 50% of the base fees will apply to follow up inspections of food premises, mobile food vans and food transport vehicles, related to ensuring compliance with an Improvement Notice or Prohibition Order.

Inspection Fees will not be applied if an expiation has been issued for the non-compliances or the non-compliance of the Notice or Order.

Inspection fees will not be applied to compliance follow-up inspections related to non-compliance of the Food Act that are addressed with a letter or the AFSA report or verbally.

Comments:

In those instances where non-compliance has occurred (after being given appropriate time frames to rectify problems) and re-inspection is required, Councils as enforcement agencies are provided with the mechanisms to achieve compliance using the provisions of the Food Act, for example expiation notices, prohibition and/or improvement orders. Notices and orders are utilised to achieve compliance of food safety standards where there are multiple concerns or recurring concerns or serious non compliances. Issuing a Notice or Order requires a follow up inspection and subsequently places greater demand on resources. As the inspection is usually specific in nature the length of inspection is reduced and subsequently the fee is set at 50% of the base fee.

Where a penalty or expiation is imposed for the non-compliance or failure to comply with the notice the inspection fee is not charged as the expiation penalty is considered sufficient.

13-15. Complaints Inspections

Inspection fees will not be applied to inspections carried out in relation to complaints received from the public as there are other penalty provisions for any complaints or offences that are substantiated.

Comments:

From time to time Councils will inspect food premises as part of complaint investigations as a reaction to complaints received from the public. Inspection fees should not be charged in these instances due to complaints often being unsubstantiated and because the ad hoc inspection for this purpose is often quite quick (normal inspection fees would apply to these businesses for standard inspections). Where complaints are substantiated then alternative penalty provisions can apply.

14-16. Community and charitable organisations

Inspection fees will apply to inspections of food premises, mobile food vans and food transport vehicles operated by listed community and charitable organisations.

Comments:

Inspection fees for community and charitable organisations will not be applied if the following criteria are evident:

- The organisation conducts only one-fund raising events per annum, or
- The organisation only sells nominal risk foods, or
- The organisation only sells BBQ foods when the food cooked when ordered and sold directly from the cooking surface, or
- The organisation only provides food for free (or donation) to recipients for charitable purposes

For the purpose of this section nominal risk is as described in the definitions and includes, packaged foods sold in the same packaging it has been received.

Other types of activities involving sale of food, conducted by community and charitable organisations may be considered nominal risk and is at the discretion of the Environmental Health Assessment Unit.

15-17. Local Sporting Clubs

Inspection fees will apply to food premises, mobile food vans and food transport vehicles operated by local sporting clubs.

Comments:

Inspection fees for local sporting clubs will not be applied if the following criteria are evident:

- The organisation is predominately run by volunteers, or
- The organisation conducts only ~~one~~ fund raising events ~~per annum~~, or
- The organisation only sells nominal risk foods, or
- The organisation only sells BBQ foods when the food cooked when ordered and sold directly from the cooking surface

For the purpose of this section nominal risk is as described in the definitions and includes, packaged foods sold in the same packaging it has been received.

~~16,18.~~ **Negligible risk businesses**

~~P4~~ Negligible risk premises that are determined to require a regular inspection will have inspection fees applied.

Inspection fees will not be applied to "negligible risk" businesses that are determined to not require inspections as a result of their low risk activities. This includes storage and sale of pre-packaged low risk foods, or warehousing and storage of frozen goods or fresh fruit and vegetables/bales without any further handling.

Comments:

~~"Negligible risk businesses" applies to those organisations, which are regarded as very low risk as they handle pre-packaged nominal risk food, and hence will not warrant regular or lengthy inspections. Businesses in this category include most/some pharmacies, video stores, bottle shops, fruit/vegetable vendors (selling whole fruit and vegetables only), warehouse storage and distribution, newsagents and alike.~~

~~17,19.~~ **Schools**

Inspection fees will apply to inspections of canteen facilities in education institutions.

Comments:

Inspection fees for education institutions will not be applied if the operator of the canteen facility is run by the school /institution and is not for profit,

~~18,20.~~ **Festivals, fetes and shows**

Inspection fees will not be applied to inspections of food premises, food stalls and food vehicles operating at the festivals, fetes and shows that only occur once a year.

Comments:

These events can be one off events or annual events and are in the main conducted by community and/or charitable organisations, and as such should not be imposed an inspection fee. When events occur on a frequent basis they will be classified as "Food Markets" and fees can apply as per the following section.

~~19,21.~~ **Food Markets**

Inspection fees will apply to inspections of food premises, food stalls and mobile food vans operating at the food markets at a reduced rate equivalent to 50% of the ~~standard~~ fee for small businesses.

~~Where the market managers and organisers agree and provide appropriate details and to accept fees, the market will be considered as one premise and the markets will be charged one fee at the rate for a business other than a small business and no individual fees will be charged to the stall holders. There will only be a maximum of two inspections per annum subject to fees and there can be additional no fee spot inspections and follow up inspections. Any breaches or offences identified and other fees such as follow up inspections for compliance with Notices will be the responsibility of the food premises, food stalls and mobile food vans operators. All other requirements such as individual business and stall holder notifications will be required.~~

Comment [Cos5]: This fee provision has been removed due to no uptake and also the inability to establish the fee structure under current regulations given the part time nature associated with market stalls and establishing FTE staff levels

Inspection fees for food markets will not be applied if the following criteria are evident:

- The food premises, food stalls and mobile food vans operating at the food markets are run by a community club or charitable organisations, and is a one off fundraising event conducted only once a year
- The food premises, food stalls and mobile food vans are deemed to be a "Negligible risk business".
- The food business is offering for sale pre-packaged, shelf stable and appropriately labelled products that do not require specific storage requirements such as temperature controls.
- The business operating the mobile food van is based in the City of Salisbury and is inspected as part of a routine premises inspection and subject to an Inspection Fee during that inspection.

Comments:

The reduced rate of fees is applicable as many stall holders could be established at numerous locations and be subject to fees from other authorities also. The reduced fee also recognises the transient nature of the stall holders and many will change from time to time.

~~The establishment of a single fee for markets is possible under the provisions of the regulations where it is considered as one business and not a small business by definition of the regulations.~~

~~This approach for markets is due to the nature of market traders:~~

- ~~• They are temporary in nature—a trader will usually trade once a weekend at the markets as opposed to a permanent food premises which is available 7 days a week in most cases, and is servicing a greater proportion of the community.~~
- ~~• Markets are usually inspected once or twice a year and all traders that are present are assessed during the visit as opposed to shopping centres where inspections occur at different premises at different times of the year due to their risks and food safety history.~~
- ~~• Traders are transient in nature—a market trader could only trade at the markets for a limited time and only return several times throughout the year.~~
- ~~• A centralised inspection fees approach would also encourage better information sharing and would ensure that food safety information can be provided to transient traders and other opportunities be considered for food safety inspections for traders that are not seen at markets.~~

~~20.22. Businesses with Food Safety Programs~~

~~Inspection fees will apply to food businesses that have [food safety management systems formal](#) and food safety programs in place and are audited by external auditors.~~

~~Inspection fees will not be applied if the food safety [management system and food safety](#) program is required by legislation and the auditing agency is a Government Authority, including but not limited to:~~

- Primary Industries and Resources South Australia
- Dairy Authority of South Australia
- SA Health (Department of Health)
- Local Government Food Safety Auditors and the
- The food safety program covers the requirements of the Food Act 2001, Food Regulations 2002 and the Food Safety Standards, and
- Council receives copies of all Audit Reports conducted by the 3rd party auditors.

Comments:

Formal food safety programs are those based on Hazard Analysis and Critical Control Point (HACCP) principals, however they are only legislatively required across several business sectors within SA at this point in time. Many businesses in the manufacturing and processing sector have chosen to implement food safety programs within their organisations for business reasons, or as a proactive measure to help ensure food safety.

Organisations that invest the time, upfront and ongoing costs of a fully audited food safety program may consider the additional cost of a Council inspection fee is unfair/unwarranted, however inspections of these premises are likely to take as long as similar type inspections.

As the enforcement agency Council can inspect such food businesses as part of their general inspection program, however audited premises that fulfil the above requirements with regards to their audits that are required by legislation may be exempted from inspections, and inspection fees.

Premises that have an audited Plan not required by legislation at present are subject to regular inspections and subsequently fees are applicable.

F – LEGISLATION/ REFERENCES

- Food Act 2001
- Food Regulations 2017, Regulation 13
- [A NEW TAX SYSTEM \(GOODS AND SERVICES TAX\) ACT 1991 Division 81 - Payments of taxes, fees and changes](#)
- [The South Australian Food Business Risk Classification, November 2018, South Australia. Department for Health and Wellbeing](#)

Document Control

Document ID	Food Act 2001 - Inspection Fees
Prepared by	John Darzanos
Version	67
Document Status	EndorsedDraft
Issue Date	

ITEM	3.3.3
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Dog Registration Fees 2019 - 2020
AUTHOR	John Darzanos, Manager Environmental Health & Safety, City Development
CITY PLAN LINKS	<p>4.2 Develop strong capability and commitment to continually improve Council's performance.</p> <p>4.3 Have robust processes that support consistent service delivery and informed decision making.</p> <p>4.4 Embed long term thinking, planning and innovation across the organisation.</p>
SUMMARY	<p>The Dog and Cat Management Act provides that Council may set dog registration fees and discounts for the category of dog registration types and concessions established by The Dog and Cat Management Board. This report presents for Council's consideration and endorsement dog registration fees for the 2019-2020 financial year. The proposed fees seek to balance revenue with the level of services provided to the community and provide rebates in prescribed circumstances to encourage increased registration.</p>
	RECOMMENDATION
	<ol style="list-style-type: none"> 1. The information be received. 2. That the maximum dog registration fee for a non-standard dog be set at \$70.00 for 2019-2020 with the dog registration categories and eligible rebates as per the <i>Dog Registration Fee Schedule Proforma 2019-2020</i> forming Attachment 4 to the Resources and Governance Committee agenda – 18/02/2019, Item no. 3.3.3. 3. The Other Fees relating to : <ul style="list-style-type: none"> • Replacement Disc Fee, • Late Registration Penalty, which is applicable 3 clear business days from last day to pay annual registration, • Puppies aged 6 months or less, • Part Year Rebate after 1 January and until end of current registration period for new dogs not previously registered in the area, and • Fee free registration period from 1 June to 30 June <p>as presented in the <i>Dog Registration Fee Schedule Proforma 2019-2020</i> forming Attachment 4 to the Resources and Governance Committee agenda – 18/02/2019, Item no. 3.3.3. be endorsed and adopted by Council.</p>

4. The Fees Unrelated to Registrations, namely:

- Seizure Fee (Seizing a dog for the purposes of impounding),
- Daily Pound Fee (Fees for Keeping Dog at Pound daily (or part thereof)),
- Veterinary Fees or other animal welfare related costs, and
- Certified Extract from register (per page),

as presented in the *Dog Registration Fee Schedule Proforma 2019-2020* forming Attachment 4 to the Resources and Governance Committee agenda – 18/02/2019, Item no. 3.3.3. be endorsed and adopted by Council.

ATTACHMENTS

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

1. Income and Expenditure Estimates 2019 2020
2. Dog Registration Fees Modelling \$65 to \$80
3. Registration Category Projected Numbers and Revenue
4. Dog Registration Fee Schedule Proforma 2019-2020

1. BACKGROUND

- 1.1 Council last reviewed and set the dog registration categories for the 2018/19 registration period and adopted the mandatory standard and non-standard dog category.
- 1.2 Fees set by Council are currently at \$65, for a non-standard dog, with a “standard dog” being a “desexed and microchipped dog” eligible for a 50% rebate.
- 1.3 The other significant change was compulsory microchipping for all dogs from 1 July 2018, along with compulsory desexing of all new dogs born after 1 July 2018.
- 1.4 Council has the discretion to set dog registration fees, including rebates and criteria that apply to the rebates. Council no longer needs approval from the Minister to set these fees as introduced in 2018/19.

2. REPORT

- 2.1 The Act requires that all fees that are generated under the Act be utilised by Council in the provision of dog management services.
- 2.2 The services currently provided by Council include the enforcement and administration of the Dog and Cat Management Act 1995 (the Act). It also includes significant support services in delivering these functions as well as the provision and maintenance of numerous council facilities provided for dog owners and for dog management. These include:
 - Dog attack investigations;
 - Dogs wandering at large;
 - Dog noise and nuisance complaints;

- Dog leashing Bylaws;
 - Guard dog register;
 - Information and educational material including participating in events such as micro-chipping day and dogs day out;
 - Dog Registrations;
 - After hours and weekend services;
 - Management and maintenance of Council's dog pound activities;
 - Organisational overheads and associated administration costs for various customer services;
 - Provision and maintenance of nine dog friendly parks and the recent expansion to include small dog parks;
 - Provision and maintenance of dog litter bags and dispensers;
 - Installation and maintenance of signage associated with dog laws and dog friendly parks;
 - Asset depreciation costs for the pound, parks and signage;
 - Dog rehoming via Animal Welfare League; and
 - The Dog and Cat Management Plan, which is being reviewed and funding from dog registrations can be utilised to fund actions, strategies and additional dog management initiatives that are identified in the Plan.
- 2.3 The costs for services provided exceed the revenue generated through registration fees, expiations, fines and impounding fees.
- 2.4 Any balance of revenue generated by fees and charges under the Dog and Cat Management Act can be utilised to cover costs associated with the dog management services, capital works and other operational activities consistent with the requirements of the Act. Dog registration fees can provide Council an opportunity to recover a proportion of the costs associated with dog management.
- 2.5 Attachment 1 to this report includes a summary of Income and Expenditure Estimates, detailing estimated revenues based on varying registration fees and estimated expenditure for dog and cat management activities and services.
- 2.6 The fees have traditionally had a fee cap applied by the Minster, however Council has had the discretion to set fees up to that cap. The elimination of a fee cap in 2018/19 as a result of amendments to the Dog and Cat Management Act has provided Council with the discretion to set their own maximum fee. The history of fees is provided in the table below.

Year	Fee	Fee increase	Percentage change	Comments
2019/20	TBD	TBD	TBD	Council can set their own fees with no cap and must include mandatory new categories of Standard and Non Standard Dog.
2018/19	\$65.00	\$0	0%	Council can set their own fees with no cap and must include mandatory new categories of Standard and Non Standard Dog.

2017/2018	\$65.00	\$2.50	4%	Note: Forecast CPI last year was 2.4%, actual was 0.7%. Forecast CPI for 2017 is 1.7%
2016/2017	\$62.50	\$1.50	2.40%	Fees increased by CPI 2.4%. Maximum fee set at \$62.50
2015/2016	\$61	\$1	1.70%	Fees increased by CPI 1.7%. Maximum fee set at \$61
2014/2015	\$60	\$0	0%	Minister increases fee cap from \$60 to \$85. Council resolves not to change the fee
2013/2014	\$60	\$0	0%	Fee is capped at \$60 due to no change by Minister
2012/2013	\$60	\$5	9%	Fee is capped at \$60 due to no change by Minister
2011/2012	\$55	\$5	10%	Fee is capped at \$60 due to no change by Minister
2010/2011	\$50	\$5	11%	Minister increases fee cap from \$45 to \$60. Council endorse fee increased by \$5 each year until cap is reached
2009/2010	\$45	\$0	0%	Fee is capped at \$45 due to no change by Minister
2008/2009	\$45	\$0	0%	Fee is capped at \$45 due to no change by Minister
2007/2008	\$45	\$5	12.50%	Fee is capped at \$45 due to no change by Minister
2006/2007	\$40	\$5	14%	Minister increases fee cap from \$35 to \$45. Council endorse fee increased by \$5 each year until cap is reached
2005/2006	\$35	\$5	16.70%	Minister increases fee cap from \$30 to \$35. Council endorse fee increase.
2004/2005	\$30	\$10	50%	Minister increases fee cap from \$20 to \$30. This is as a result of amendments to the Dog and Cat Management Act. Council endorse fee increase.
2003/2004	\$20	0		Prior to 2004 registration fee is capped at \$20

Dog Registration Fees 2019/20

2.7 The registration categories have been established by The Dog and Cat Management Board and are the same for all councils. These registration categories are:

- Business Registration;
- Assistance Dog;
- Non Standard Dog;
- Standard Dog;
- Non Standard Dog – Concession;
- Standard Dog – Concession;
- Non Standard Dog – Working; and
- Standard Dog – Working.

- 2.8 In determining registration fees, it is important to consider changes in the number of dogs in these categories and overall dog ownership in the Council area.
- 2.9 The mandatory provisions for desexed and microchipped dogs that came into effect 1 July 2018 will result in all new dogs being registered as standard dogs. This will result in a reduced number of full fee paying dog registrations. As a result the population of non-standard dogs will eventually decline and transition to standard dogs eligible for a registration fee rebate.
- 2.10 The current projected number of registered standard dogs is 14,925 or 65% of the total registered dog population. If the proportion of standard dogs increases by 10% in the 2019/20 period, it is expected to have a negative budgetary impact of approximate \$40K or 5% of total registration revenue, if fees remain the same. A 20% increase in standard dog registrations will have a negative budgetary impact of \$80K or 10% of total registration revenue, if fees remain the same.
- 2.11 In addition, dog ownership in the city has been declining over recent years. The total number of registered dogs in 2013-14 was 25,640 dogs. In 2018/19 the total number of registered dogs is projected to be 22,848, representing a reduction of 2,792 (10%).
- 2.12 The proposed fee structure has been modelled on the number of registered dogs in 2018/19 period with projections for final registration numbers based on historical data trends and allowing for a 10% increase in standard dog which is considered to be conservative.
- 2.13 A representative fee increase has been modelled with comparisons at \$65, (current rates) \$66 (CPI increase of 2% or \$1.30 – rounded to \$66), \$68, \$70, \$75 and \$80 for comparison. Attachment 2 presents the dog registration fees modeling.
- 2.14 The following table summarises the fee modelling and the impact from increases up to \$80 for comparison.

Fee (non-standard)	Percentage Increase from \$65	Estimated Revenue* (estimating a 10% increase in standard dogs registrations)	Variation from 2018/19 projected revenue of \$811362.50
\$65.00	0	\$770,997.50	-\$40,365.00
\$66.00	1.5	\$782,859.00	-\$28,503.50
\$68.00	4.6	\$806,582.00	-\$4,780.50
\$70.00	7.7	\$830,305.00	\$18,942.50
\$75.00	15.4	\$889,612.50	\$78,250.00
\$80.00	23.1	\$948,920.00	\$137,557.50

**Revenue estimated on 2018/19 registration number projections*

- 2.15 An increase in registration fees will ensure that the services provided for dog management are funded as much as possible from the registration fees and other associated revenue such as expiations, rather than general revenue.
- 2.16 A registration fee of \$70 (for non-standard dogs) for 2019/20 will maintain the current revenue or slightly higher revenue, assuming the total current dog registration numbers are maintained. It should be noted that the registration fee for standard dogs in this scenario is \$35.00 which is a \$2.50 increase (or \$1.25 for concession card holders).

- 2.17 The implications of a larger increase in the number of standard dog registrations in 2019/20, modelled on a 20 percent increase, is represented in the following table:

Fee	Percentage Increase from \$65	Estimated Revenue* (estimating a 20% increase in standard dogs registrations)	Variation from 2018/19 projected revenue of \$811362.50
\$65.00	0	\$730,665.00	-\$80,697.50
\$66.00	1.5	\$741,906.00	-\$69,456.50
\$68.00	4.6	\$764,388.00	-\$46,974.50
\$70.00	7.7	\$786,870.00	-\$24,492.50
\$75.00	15.4	\$843,075.00	\$31,712.50
\$80.00	23.1	\$899,280.00	\$87,917.50

- 2.18 These projections indicate that a registration fee of \$75 for 2019/20 is required to maintain revenues or slightly increase revenue, assuming the total current dog registration numbers are maintained.
- 2.19 The Registration Category Numbers, Projected Dog Numbers and Revenue Scenarios are further outlined in Attachment 3.

Comparisons to other Councils

- 2.20 As a comparison, the registration fees for adjacent Councils are as follows:

Council	2018/19 - Maximum Fee for Non Standard Dog
Playford	\$65
Tea Tree Gully	\$72
Port Adelaide Enfield	\$80
Gawler	\$76.50

Puppy Rebate

- 2.21 Council has offered a puppy rebate of 50% for all dogs born after January 1st and until end of current period for puppies 12 weeks old.
- 2.22 With the introduction of compulsory desexing, it was identified that some dogs whilst requiring registration at 3 months of age, cannot be desexed until 6 months of age. As a result these owners were not eligible for the 50% standard dog rebate. It is proposed to introduce a full year puppy rebate to enable new puppies to be registered at the standard dog rate. The registered dog owner will still be required to desex their pet otherwise penalties will apply. The full year puppy fee has been included in this year's fees for adoption by Council in the proforma included in Attachment 4.

Part Year Rebate

- 2.23 A part year rebate has been offered in previous years (50% rebate for all new dogs) not previously registered in the Council area as from 1 April till the end of the registration period. This rebate assists and encourages residents to register their dog for the balance of the registration period and ensures they will receive a renewal for the next period.

- 2.24 It is proposed that the period for this rebate be extended to apply from 1 January, making the rebate applicable to the entire second half of the registration period. This is intended to encourage residents to register their dogs sooner.
- 2.25 Historically registration numbers from 1 January to the end of the period are in the vicinity of 1000 dog registrations. However this rebate would not apply to anyone that has an outstanding registration renewal, only to new dogs entering the Council area. New dog registrations make up approximately 10% to 20% of registrations per annum and subsequently the partial year rebate would potentially apply to 100 to 200 dog registrations.
- 2.26 The part year rebate from 1 January has been included in this year's fees for adoption by Council in the proforma included in Attachment 4.

Registration Period

- 2.27 With the implementation of centralised state government DACO system, all payments are made to the Dog and Cat Management Board and then funds are acquitted to Councils pending confirmation of all transitions for the period.
- 2.28 The Dog and Cat Management Board has advised that registration payments made in June will not be received by Councils until July in the next financial year.
- 2.29 Due to the extremely low volume of registrations made in June (approximately 100), along with the traditional closure of the registration period in the 3rd week of June, a fee free period in June would remove the need to process financials in the next financial year for an extremely low volume of dog registrations. In addition offering a free registration period during this period does assist staff in encouraging owners of non-registered dogs to commit to registering their dogs and ensure they receive a renewal in the next period. This strategy has been extremely beneficial for dog owners that have traditionally not registered their dogs.
- 2.30 A fee free registration period from 1 June to 30 June has been included in this year's fees for adoption by Council in the proforma included in Attachment 4.

Fees Unrelated to Registrations

- 2.31 For the purposes of Section 26 of the Dog and Cat Management Act councils may charge fees for meeting any other requirement imposed on councils under this Act.
- 2.32 Under the Regulations, unless the contrary intention appears, any other fees and charges payable for the purposes of the Act include:
- fee in relation to a matter of a particular kind has been fixed by the Dog and Cat Management Board
 - or
 - if no such fee has been fixed by the Board the fee in relation to matters of the relevant kind determined by the council within whose area the fee is incurred or to be paid.

- 2.33 Once Council determines the fees that are recoverable, it can recover those fees as prescribed under Section 64E of the Act:
- 2.33.1 the operator of a facility at which a dog or cat has been detained under this Part may recover the charges that are payable under the regulations in relation to the seizure, detention or destruction of the dog or cat from a person who owns or is responsible for the control of the dog or cat as a debt in a court of competent jurisdiction whether or not the dog or cat has been returned to the person.
- 2.33.2 Under Section 62, failure to pay the fees entitles the person the dispose of or destroy the dog.
- 2.34 Included in the registration fees proforma are the fees associated with the seizure, detention or destruction of dogs and include seizure fees and a daily pound fee.
- 2.35 Council impounds approximately 700 – 900 dogs per annum and on average relocates approximately 54% to the Animal Welfare League as they remain unclaimed.
- 2.36 The current fees are set at \$75 for the Seizure Fee and \$44 for Fees for Keeping Dog at Pound daily (or part thereof). The seizure fee is designed to recoup the costs associated with collecting, transporting, impounding and processing the dogs into systems along with advertising on the pound register, internet and trying to contact the owners which includes leaving documentation at their last known address if the dog is registered. The daily pound fee is there to cover costs of housing, feeding and cleaning the pound once a dog occupies a pen and leaves a pen.
- 2.37 In order to reduce the financial impact of seized and impounded dogs and improve return to owner rates, it is recommended that the seizure fee include the first 24 hours of impounding and then additional daily fees are charged for day 2 and day 3. This provides an incentive for dog owners to recover their dogs within a day of it being collected and also does not penalise anyone for not being able to collect their dog due to work or other reasons for not being able to access the pound.
- 2.38 As a comparison the proposed change would be as follows:

	Current	Proposed
Seizure Fee	\$75	\$75
Day 1 Pound Fee	\$44 (Total \$119)	\$0 (Total \$75)
Day 2 Pound Fee	\$44 (Total \$163)	\$44 (Total \$119)
Day 3 Pound Fee	\$44 (Total \$207)	\$44 (Total \$163)
Total for 3 days impounding	\$207	\$163

- 2.39 It should be noted that dogs that can be returned to owners in the field do not get charged a seizure fee as the dogs are not impounded, however wandering at large penalties may apply.
- 2.40 The proposed change to impound fees has been included in the proforma included in Attachment 4 for Council consideration and adoption.

Veterinary /Welfare Fees

- 2.41 As part of the process in seizing and detaining dogs, there have been on occasions dogs that are requiring an assessment by a Vet to assess their health and wellbeing or address suspected pain or injury. The Animal Welfare Act requires that any person or organisation responsible for a dog or cat has a responsibility for its welfare whilst in its possession.
- 2.42 Council staff utilise the services of local veterinary surgeries for these assessments and costs can be incurred. It is proposed to recognise and include these costs for minor pain management and or minor urgent veterinary treatment that may be immediately required for seized dogs and where the owner cannot be contacted.
- 2.43 These costs and charges would be recovered by establishing a Veterinary/Welfare fee that would be the direct costs incurred by Council and have been included in the proforma included in Attachment 4.

Registration Fees Proforma

- 2.44 The proposed fees and new categories are summarised in Attachment 4 – Dog Registration Fees Proforma 2019-2020 and will need to be amended to reflect any changes to the base registration fees as recommended by Council.

3. CONCLUSION / PROPOSAL

- 3.1 The services provided by Council in the area of dog and cat management are diverse, resource intensive and involve a significant budget provision and subsidisation from Council's general revenue under historic fee levels. The costs for dog management services are high and registration fees contribute significantly to the provision of these services, on the 'user pays' principle.
- 3.2 An increase in registration fees will ensure that the services provided for dog management are funded as much as possible from registration fees, and the impact on general revenue is limited.
- 3.3 An annual increase to the registration fees will ensure that fees are contributing to the administration and enforcement of the Dog and Cat Management Act and to the provision of community services and facilities to support dog owners.
- 3.4 A gradual increase will also ensure registration revenue is sustained as the dog population transitions into the new "standard dog registration class."
- 3.5 The report outlines options to increase registration fees and it is recommended that registration fees for 2019/20 be increased by \$5 to \$70 to maintain Council's current level of subsidy of the service from general revenue.
- 3.6 A \$5 increase to the maximum fee for non-standard dogs represents a \$2.50 increase (or \$1.25 for concession card holders) for standard dogs. Approximately 65% to 75% of all registered dog owners already claim the standard dog registration rebate and the number that claim the standard dog rebate is expected to increase. The proposed fees also include rebates / incentives to encourage increased registration in prescribed circumstances.

CO-ORDINATION

Officer: Executive Group
Date: 11.02.19

Income and Expenditure Estimates 2019-20

Budget Estimates	2017/18 \$65.00 fee	Revenue as % of Total Expenditure	2018/19 Estimates with \$65 fee	Revenue as % of Total Expenditure	2019/20 Estimates with \$65 fee	Revenue as % of Total Expenditure	2018/19 Estimates with \$65 fee	Revenue as % of Total Expenditure	2018/19 Estimates with \$68 fee	Revenue as % of Total Expenditure	2018/19 Estimates with \$70 fee	Revenue as % of Total Expenditure	2018/19 Estimates with \$75 fee	Revenue as % of Total Expenditure	2018/19 Estimates with \$80 fee	Revenue as % of Total Expenditure
Operating Revenue - Registration Fees	(\$822,779)	60	(\$812,000)	53	(\$770,998)	49	(\$782,859)	50	(\$806,582)	51	(\$830,305)	52	(\$889,613)	56	(\$948,920)	59
Operating Revenue - Other	(\$277,572)	20	(\$333,000)	22	(\$333,000)	21	(\$333,000)	21	(\$333,000)	21	(\$333,000)	21	(\$333,000)	21	(\$333,000)	21
Total Operating Revenue	(\$1,100,351)	80	(\$1,145,000)	74	(\$1,103,998)	70	(\$1,115,859)	71	(\$1,139,582)	72	(\$1,163,305)	73	(\$1,222,613)	76	(\$1,281,920)	79
Operating Expenditure	\$1,169,010		\$1,263,567		\$1,273,863		\$1,276,709		\$1,282,403		\$1,288,096		\$1,302,330		\$1,316,564	
Capital Expenditure	\$0		\$63,000		\$79,000		\$79,000		\$79,000		\$79,000		\$79,000		\$79,000	
Estimated Other Items Expenditure**	\$212,123		\$216,365		\$220,693		\$220,692		\$220,692		\$220,692		\$220,692		\$220,692	
Total Expenditure	\$1,381,133		\$1,542,932		\$1,573,556		\$1,576,402		\$1,582,095		\$1,587,788		\$1,602,022		\$1,616,256	
Net Deficit / (Profit)	\$280,782		\$397,932		\$469,558		\$460,543		\$442,513		\$424,483		\$379,410		\$334,336	

** Estimated Expenditure (Other items to be formally quantified)

- Organisational overheads (IT, HR, Administration, Accommodation costs)
- Customer Centre staff resources to provide animal management services, (customer requests, registrations)
- Regular maintenance of 9 dog friendly parks
- Provision and maintenance of dog signs (approximately 700 signs throughout the City)
- Provision and maintenance of dog litter bags and dispensers
- Maintenance of the dog pound
- Asset depreciation costs for the pound, parks and signage, 9 dog parks built @ \$60K to \$90K each and \$250000 spent over the last 2 years for upgrades.
- Development of small dog parks and provision for additional 6 small dog parks
- The endorsed Dog and Cat Management Plan identifies a range of actions, strategies and additional dog management initiatives which can have financial implications for the organisation.
 - Additional dog friendly parks to be considered
 - By Law reviews and potential cat controls
 - Pound renewal and or pound services review

Dog Registration Fees Modelling \$65 to \$80

Registration Category	% rebate	\$65 fee	\$66 fee	Variation from \$65	\$68 fee	Variation from \$65	\$70 fee	Variation from \$65	\$75 fee	Variation from \$65	\$80 fee	Variation from \$65
Business Registration	0	\$65.00	\$66.00	\$1.00	\$68.00	\$3.00	\$70.00	\$5.00	\$75.00	\$10.00	\$80.00	\$15.00
Assistance Dog	100	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Non Standard Dog	0	\$65.00	\$66.00	\$1.00	\$68.00	\$3.00	\$70.00	\$5.00	\$75.00	\$10.00	\$80.00	\$15.00
Standard Dog	50	\$32.50	\$33.00	\$0.50	\$34.00	\$1.50	\$35.00	\$2.50	\$37.50	\$5.00	\$40.00	\$7.50
Concession Non-standard	50	\$32.50	\$33.00	\$0.50	\$34.00	\$1.50	\$35.00	\$2.50	\$37.50	\$5.00	\$40.00	\$7.50
Concession - standard	75	\$16.25	\$16.50	\$0.25	\$17.00	\$0.75	\$17.50	\$1.25	\$18.75	\$2.50	\$20.00	\$3.75
Non Standard Dog - Working	0	\$65.00	\$66.00	\$1.00	\$68.00	\$3.00	\$70.00	\$5.00	\$75.00	\$10.00	\$80.00	\$15.00
Working - Standard Dog	50	\$32.50	\$33.00	\$0.50	\$34.00	\$1.50	\$35.00	\$2.50	\$37.50	\$5.00	\$40.00	\$7.50

Registration Category Numbers and Projected Numbers and Revenue

Registration Category	% rebate 2018/2019	Projected Numbers	Projected Numbers (10% increase in standard dogs)	Projected Numbers (20% increase in standard dogs)
Business Registration	0	19	19	19
Assistance Dog	100	0	0	0
Non Standard Dog	0	4605	3614	2624
Standard Dog	50	9905	10896	11886
Concession Non-standard	50	3296	2794	2292
Concession - standard	75	5020	5522	6024
Non Standard Dog - Working	0	3	3	3
Working - Standard Dog	50	0	0	0
		22848	22848	22848

Fee	Percentage Increase from \$65	Estimated Revenue* (with no change to registration classifications)	Estimated Revenue* (estimating a 10% increase in standard dogs registrations)	Variation from 2018/19 projected revenue of \$811362.50	Estimated Revenue* (estimating a 20% increase in standard dogs registrations)	Variation from 2018/19 projected revenue of \$811362.50
\$65.00	0	\$811,362.50	\$770,997.50	-\$40,365.00	\$730,665.00	-\$80,697.50
\$66.00	1.5	\$823,845.00	\$782,859.00	-\$28,503.50	\$741,906.00	-\$69,456.50
\$68.00	4.6	\$848,810.00	\$806,582.00	-\$4,780.50	\$764,388.00	-\$46,974.50
\$70.00	7.7	\$873,775.00	\$830,305.00	\$18,942.50	\$786,870.00	-\$24,492.50
\$75.00	15.4	\$936,187.50	\$889,612.50	\$78,250.00	\$843,075.00	\$31,712.50
\$80.00	23.1	\$998,600.00	\$948,920.00	\$137,557.50	\$899,280.00	\$87,917.50

Dog Registration Fee Schedule Proforma 2019-2020

Registration Category	% rebate 2019/2020	2019-2020 \$70 fee	2019-2020 Including Late fee +\$10
Business Registration	0	\$70.00	\$80.00
Assistance Dog	100	\$0.00	\$10.00
Non Standard Dog	0	\$70.00	\$80.00
Standard Dog	50	\$35.00	\$45.00
Non Standard Dog - Concession	50	\$35.00	\$45.00
Standard Dog - Concession	75	\$17.50	\$27.50
Non Standard Dog - Working	0	\$70.00	\$80.00
Standard Dog - Working	50	\$35.00	\$45.00

Other Fees	2018/19	2019/20
Transfer of Registration	N/A	N/A
Replacement Disc Fee	To be determined by DCMB	As determined by the DCMB
Late Registration Penalty (applies 3 clear business days from last day to pay annual registration)	\$10.00	\$10.00
Percentage Rebate after Jan 1 st and until end of current period for puppies 12 weeks old	Varies (50% of fee)	N/A
Puppies aged 6 months or less	N/A	Standard Dog or Standard Dog – Concession Fee applies
Percentage Rebate (part year) after April 1 st and until end of current period for new dogs not previously registered in the area	Varies (50% of fee)	N/A
Part Year Rebate after 1 January and until end of current period* for new dogs not previously registered in the area	N/A	Varies (50% of fee)
Fee free registration period from 1 June to 30 June	N/A	\$0 for all registrations
Fees Unrelated to Registrations		
Seizure Fee (Seizing a dog for the purposes of impounding) and includes Day 1 (or first 24 hours) or part thereof of impounding.	\$75.00	\$75.00

Daily Pound Fee (per day or part thereof) (Fees for Keeping Dog at Pound daily (or part thereof)) applicable for Day 2 (or second 24 hour period) or part thereof and Day 3 (or third 24 hour period) or part thereof.	\$44.00	\$44.00
Veterinary Fees or other animal welfare related costs	N/A	Varies (Direct costs incurred)
Certified Extract from register (per page)	\$10.00	\$10.00

Notes:

1. For the purposes of Section 26 of the Dog and Cat Management Act Councils may charge fees for meeting any other requirement imposed on councils under this Act.
2. Under the Regulation 22 unless the contrary intention appears, any other fees and charges payable for the purposes of the Act include:
 - fee in relation to a matter of a particular kind has been fixed by the Dog and Cat Management Board
 - or
 - if no such fee has been fixed by the Board the fee in relation to matters of the relevant kind determined by the council within whose area the fee is incurred or to be paid.
3. The Other Fees and Fees Unrelated to Registrations as presented above are for the purposes of Section 26 and Regulation 22 fees that are declared to be matters of the relevant kind determined by the council.
4. The above fees being so declared are recoverable under the provisions of Section 64E which states:
 - the operator of a facility at which a dog or cat has been detained under this Part may recover the charges that are payable under the regulations in relation to the seizure, detention or destruction of the dog or cat from a person who owns or is responsible for the control of the dog or cat as a debt in a court of competent jurisdiction whether or not the dog or cat has been returned to the person.
5. Under Section 62, failure to pay the fees entitles the person to destroy or otherwise dispose of the dog.

ITEM	3.4.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Nominations Sought for the Local Government Ministerial Advisory Committee
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.4 To ensure informed and transparent decision-making that is accountable and legally compliant
SUMMARY	The Minister for Planning has written to the LGA requesting nominations for a local government member on the Local Government Ministerial Advisory Committee for a term commencing immediately upon appointment. Nominations must be forwarded to the LGA by COB Friday 8 March 2019.

RECOMMENDATION

1. _____ be nominated as a local government member on the Local Government Ministerial Advisory Committee.

ATTACHMENTS

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

1. Local Government Ministerial Advisory Committee - Terms of Reference
2. Selection Criteria - Local Government Ministerial Advisory Committee

1. BACKGROUND

- 1.1 The Local Government Ministerial Advisory Committee is formed pursuant to the *Planning, Development and Infrastructure Act 2016*.
- 1.2 The Minister for Planning has written to the LGA requesting nominations for a local government member on the Local Government Ministerial Advisory Committee for a term commencing immediately upon appointment. Nominations must be forwarded to the LGA by COB Friday 8 March 2019.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Circular 4.8 dated 23 January 2019 from the LGA was emailed to Elected Members and the Executive Group on 23 January 2019.
 - 2.1.2 At the time of writing this report, no registrations of interest in nominating have been received.

External

2.1.3 Nil

3. REPORT

- 3.1 The Local Government Ministerial Advisory Committee is pursuant to the *Planning, Development and Infrastructure Act 2016*.
- 3.2 The objective of the Committee is to:
- 3.2.1 Meet the requirements set out in Section 244 of the *Planning, Development and Infrastructure Act 2016* (the Act)
- 3.2.2 Provide advice on and represent the interests of local government in South Australia on matters related to the implementation of the Act as referred to it by the Minister
- 3.2.3 Act as a conduit for information and assist in the facilitation of engagement activities between local government and the DPTI Planning Reform Project team through the implementation process.
- 3.3 A copy of the Terms of Reference is attached to this report for information.
- 3.4 Appointment to the LG Ministerial Advisory Committee commences immediately and expires on 30 June 2020. The position is available due to the resignation of one of the LGA nominated persons, Mayor Michael Lange (The Barossa).
- 3.5 Membership of the Local Government Advisory Committee is on a voluntary basis with the Committee meeting at least four times during the year. The Committee is only required to operate during the implementation phase of the new planning system as outlined in the Act.
- 3.6 LGA nominations on outside bodies will, unless determined otherwise by the LGA Board or Executive Committee, be currently serving Council Members or Council Staff.
- 3.7 Nominations addressing the Selection Criteria provided in Part A (attached) for the Local Government Ministerial Advisory Committee must be forwarded to the LGA by COB Friday 8 March 2019.

4. CONCLUSION / PROPOSAL

- 4.1 Council is asked to determine if a nomination is to be made for the Local Government Ministerial Advisory Committee.

CO-ORDINATION

Officer: Executive Group
Date: 11/02/2019



Terms of Reference – Local Government Advisory Committee

OBJECTIVE

The objective of the Local Government Advisory Committee is to:

- Meet the requirements set out in Section 244 of the *Planning, Development and Infrastructure Act 2016* (the Act).
- Provide advice on and represent the interests of Local Government in South Australia on matters related to the implementation of the Act as referred to it by the Minister.
- Act as a conduit for information and assist in the facilitation of engagement activities between Local Government and the DPTI Planning Reform Project team through the implementation process.

PRINCIPLES

The Committee will work together to support the successful implementation of the Planning Reform Project by:

- Working with purpose and alignment to achieve quality outcomes for the new system;
- Creating an environment of participation, where honest, open and robust discussions are encouraged;
- Remaining open, acting with integrity and providing frank and fearless advice;
- Being professional on all fronts, including in the respectful recognition of differing views and opinions; and
- Recognising that Communication, information sharing and consultation are the keys to facilitating effective cooperation and a spirit of trust.

MEMBERSHIP

The Local Government Advisory Committee will be constituted of no more than 12 persons appointed by the Minister.

Each member will be appointed for a term not exceeding 12 months.



Membership is on a voluntary basis and, as such, will not be remunerated.

Membership will include an independently appointed Chair, an Executive Officer from within DPTI and no less than 10 representatives from Local Government to be selected from a pool of nominees provided to the Minister by the Local Government Association. The membership of this Committee shall be broadly inclusive of all areas of the state, including regions, as far as practicable.

Presiding member (Chairperson)

The Minister will appoint an independent Member of the Committee to act as the Presiding Member (Chairperson).

ROLES & RESPONSIBILITIES

Minister

In accordance with the Act, the Minister will be responsible for determining:

- The membership of the Committee
- The procedures of the Committee
- The functions and scope of operation of the Committee; and
- Any other matters of interest.

Chairperson

The primary role and function of the Chairperson is to lead and manage the processes and practices of the Committee and ensure the effective delivery of the group's Objectives.

Executive Officer

An Executive Officer shall be assigned from the DPTI Planning Reform management team to support the Committee.

The Executive Officer will ensure agendas, minutes, including a record of agreed actions, and other appropriate documentation for each meeting are recorded, prepared and distributed.

The Executive Officer provides advice in relation to project management aspects of planning reform.

Guests

The Minister or Executive Officer may arrange for guests to attend or contribute to scheduled meetings for the purpose of providing specialised expertise or guidance on a particular item.

Conflict of Interest

Committee Members must declare any conflicts of interest at the start of each meeting or before discussion of the relevant agenda item. The Chairperson will determine whether the Committee member should:

- Not take part in any discussion by the Board relating to the matter; and
- Not vote in relation to the matter; and
- Be absent from the meeting room when any such discussion or voting takes place.

Independent Commission Against Corruption

In accordance with the Directions and Guidelines published by the Independent Commissioner Against Corruption, members of the Committee are classified as 'public officers' because they are:

- A person who is a member of a local government body; and
- A person who is an officer or employee of a local government body.

In accordance with the Commissioner's Directions and Guidelines all 'public officers' have an obligation to report a matter that is reasonably suspected of involving corruption, misconduct or maladministration in public administration to the OPI. The process for reporting such a matter to the OPI is outlined in the Directions and Guidelines document and on the Independent Commissioner Against Corruption internet site at www.icac.sa.gov.au.

Confidentiality

Committee Members must ensure confidential information received in the process of acting as a Committee Member remains confidential and is not disclosed improperly to others.

Committee Members must refer all enquiries from all external parties (including media) directly to the Executive Officer for action.

MEETINGS & PROCEEDINGS

Meeting schedule

The Committee shall meet at least four times in a calendar year or more frequently as required by the Minister or his delegate.

Special meetings may be held at any time as required and agreed by the Minister or his delegate.

Agendas and supporting documentation

An agenda and any associated papers for prior reading will be distributed through the Executive Officer not less than one week (five working days) prior to the next scheduled meeting.

Proceedings

The Chairperson presides at meetings of the Committee. If the Chairperson is absent, an Acting (Alternate) Chairperson or a Committee Member chosen by the Committee Members present presides at the meeting.

A quorum of the Committee consists of a number ascertained by dividing the total number of appointed Members by half, ignoring any fraction resulting from the division, and adding one (and no business may be transacted at a meeting of the Board unless a quorum is present).

Meetings are carried out in such a manner as to ensure the fair and full participation of all Committee Members

If required, Committee business may be conducted 'out-of-session' by electronic correspondence between the Executive Officer on behalf of the Chairperson and Committee Members.

Proxy

If a Member is not able to attend a scheduled meeting, a proxy of appropriate level and experience may attend in their place, otherwise an apology is to be tendered.

Minutes

Minutes are to be collated and distributed electronically by the Executive Officer to the Minister's office, Chairperson and Committee Members no later than one week after the meeting was held.

REVIEW

These Terms of Reference, including membership composition, shall be reviewed:

- Every 12 months, or more frequently at the discretion of the Minister; and
- The review will include an assessment of the effectiveness of the Committee and individual members with particular reference to the group meeting its Objectives and its interface with the CAT.

TERMS

Minister	Minister for Planning
DPTI	Department of Planning, Transport and Infrastructure
LGA	Local Government Association

ADOPTED

.....

Date: / /

ADOPTED by the Chairperson

Nominations to Outside Bodies - Part A

Local Government Ministerial Advisory Committee	
Legal Status of Body	Advisory Committee
Summary Statement	<p>The objectives of the LGAC are to:</p> <ol style="list-style-type: none"> 1. Meet the requirements set out in Section 244 of the Planning Development and Infrastructure Act 2016 2. Provide advice on and represent the interests of local government in South Australia on matters related to the implementation of the Act as referred to it by the Minister 3. Act as a conduit for information and assist in the facilitation of engagement activities between local government and the DPTI Planning Reform Project team through the implementation process.
Selection criteria	
<i>The following selection criteria must be addressed when completing Part B</i>	
Qualifications Required <i>(formal qualifications relevant to the appointment)</i>	No formal qualifications required
Industry Experience	Experience and knowledge of the Local Government Act and Development Act.
Board / Committee Experience	n/a
Key Expertise <i>(other relevant experience i.e. those requirements established for a Board/Committee under an Act)</i>	Description of likely contribution in terms of skills and experience with local government sector.
Liability and indemnity cover	
<i>The LGA requires that persons appointed to outside bodies be appropriately insured throughout the period of their appointment and seeks to collect details of the insurances provided by the outside body (on an annual basis)</i>	
Insurance information (Certificates of Currencies or equivalent) supplied by the Outside Body	Yes
Insurance Policies are valid & current	Yes

ITEM	3.4.2
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Nominations Sought for the Dog and Cat Management Board
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	The Minister for Environment and Water has written to the LGA requesting nominations for two local government members on the Dog and Cat Management Board for a term of up to 3 years. Nominations must be forwarded to the LGA by 14 March 2019.

RECOMMENDATION

1. _____ be nominated as a Local Government Member on the Dog and Cat Management Board.

ATTACHMENTS

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

1. Selection Criteria - Dog and Cat Management Board - February 2019

1. BACKGROUND

- 1.1 The Minister for Environment and Water has written to the LGA requesting nominations for two local government members on the Dog and Cat Management Board for a term of up to 3 years.
- 1.2 Nominations must be forwarded with a current CV to the Local Government Association (LGA) by COB 14 March 2019.

2. CONSULTATION / COMMUNICATION**2.1 Internal**

- 2.1.1 Circular 6.6 dated 7 February 2019 from the LGA was circulated to Elected Members, the Executive Group, Manager Environmental Health and Safety and Team Leader General Inspectorate on 7 February 2019.
- 2.1.2 Cr Shiralee Reardon has registered an interest in nominating for the Board.

2.2 External

- 2.2.1 Nil

3. REPORT

- 3.1 The Dog and Cat Management Board is established pursuant to Section 12 of the *Dog and Cat Management Act 1995* and works closely with key partner organisations and state government to improve dog and cat management in South Australia. Using its research and expertise the Board has ensured that South Australia's regulatory and legislative framework has been reviewed and amended to improve the management of dogs and cats in South Australia.
- 3.2 The Minister has asked the LGA to forward nominations for two member positions on the Dog and Cat Management Board for a term of up to three years commencing immediately.
- 3.3 The LGA was previously represented by Ms Jan Loveday (Adelaide Hills) and Ms Gail Kilby (Onkaparinga) who have both resigned.
- 3.4 LGA nominees together must meet the legislative criteria as set out below in order to be considered for nomination:
- 3.4.1 Practical knowledge of and experience in Local Government, including Local Government processes, community consultation and the law as it applies to Local Government;
 - 3.4.2 Experience in the administration of legislation;
 - 3.4.3 Experience in financial management;
 - 3.4.4 Experience in education and training.
- 3.5 The role of the Dog and Cat Management Board is:
- (a) to plan for, promote, and provide advice about, the effective management of dogs and cats throughout South Australia;
 - (b) to oversee the administration and enforcement of the provisions of this Act relating to dogs, including:
 - i. monitoring the administration and enforcement of this Act by councils; and
 - ii. issuing guidelines and providing advice to councils about
 - A. planning for the effective management of dogs and cats;
 - B. training for authorised persons;
 - C. the appropriate level of administration and enforcement in the circumstances prevailing in the area;
 - D. the issuing of orders or related directions under this Act;
 - E. the standard of facilities used for the detention of dogs and cats under this Act;
 - F. the keeping and inspection of registers under this Act and the issuing of certificates of registration and registration discs;
 - G. any other matter related to the administration or enforcement of the provisions of this Act relating to dogs and cats; and
 - iii. otherwise providing support and assistance to councils;

- (ba) to accredit dogs as assistance dogs;
 - (bb) to keep and maintain registers for the purposes of this Act;
 - (c) to inquire into and consider all proposed by-laws referred to it under this Act, with a view to promoting the effective management of dogs and cats, and, to the extent that the Board considers it appropriate, the consistent application of by-laws throughout South Australia;
 - (d) to advise the Minister or the LGA, either on its own initiative or at the request of the Minister or the LGA, on the operation of this Act or issues directly relating to dog or cat management in South Australia;
 - (e) to undertake or facilitate research relating to dog or cat management;
 - (f) to undertake or facilitate educational programs relating to dog or cat management;
 - (g) to keep this Act under review and make recommendations to the Minister with respect to the Act and regulations made under the Act;
 - (ga) to fix fees and charges for the purposes of this Act;
 - (h) to carry out any other function assigned to the Board by the Minister or by or under this Act.
- 3.6 The Board's functions may extend to providing the following services as the Board thinks fit:
- (a) the accreditation of training programs for dogs and owners;
 - (b) the accreditation of procedures for testing the behaviour of dogs;
 - (c) the carrying out of any other function relating to responsible dog and cat ownership or the effective management of dogs and cats.
- 3.7 The allowance for Members is currently \$258 per four hour session attended.
- 3.8 The Board generally meets on the last Wednesday of each month between 1.30pm and 5.30pm, holding their meetings at metropolitan and regional councils. Depending on location, regional Council meetings can be a full day commitment with some including overnight stays.
- 3.9 Nominations addressing the Selection Criteria (Part A attached) for the Dog and Cat Management Board must be forwarded to the LGA by COB Thursday 14 March 2019. The LGA Board will consider nominations received at its meeting on Thursday 21 March 2019.

4. CONCLUSION / PROPOSAL

- 4.1 Council is asked to determine if a nomination is to be made.
- 4.2 Council should note it is not obliged to make a nomination.

CO-ORDINATION

Officer: Executive Group
Date: 11/02/2019

Nominations to Outside Bodies - Part A

Dog and Cat Management Board	
Legal Status of Body	Statutory Authority
Summary Statement	The Dog and Cat Management Board operates under the Dog and Cat Management Act 1995 and its functions include monitoring the administration and enforcement of this Act by Councils.
Selection criteria	
<i>The following selection criteria must be addressed when completing Part B</i>	
Qualifications <i>(formal qualifications relevant to the appointment)</i>	No formal qualifications required.
Industry Experience	Relevant knowledge of dog and cat management issues as they impact local government.
Board / Committee Experience	Relevant experience serving on high level intergovernmental boards, committees or funding allocation bodies is highly desirable.
Key Expertise <i>(other relevant experience i.e. those requirements established for a Board/Committee under an Act)</i>	Section 12(2) of the Dog and Cat Management Act 1995 requires LGA nominees, together, to have the following attributes: (a) practical knowledge of and experience in local government, including local government processes, community consultation and the law as it applies to local government; (b) experience in the administration of legislation; (c) experience in financial management; (d) experience in education and training.
Liability and indemnity cover	
<i>The LGA requires that representatives on outside bodies be appropriately insured throughout the period of their appointment and seeks to collect details of the insurances provided by that organisation (on an annual basis)</i>	
Insurance information (Certificates of Currencies or equivalent) supplied by the Outside Body	Yes
Insurance Policies are valid & current	Yes

ITEM	3.5.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Request to Attend Interstate Activity - Australian Local Government Women's Association Bi-ennial Conference, Blacktown, New South Wales
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	<p>Paragraph E17 of the Elected Member Training and Development Policy requires that for all interstate activities, regardless of total cost, approval is required by Council.</p> <p>This report seeks Council approval for Cr Julie Woodman to attend the Australian Local Government Women's Association National Conference at West HQ, The Rooty Hill RSL, Blacktown, New South Wales from 15-17 May 2019.</p>

RECOMMENDATION

1. Attendance by Cr Julie Woodman at the Australian Local Government Women's Association National Conference at West HQ, The Rooty Hill RSL, Blacktown, New South Wales from 15-17 May 2019 be approved.

ATTACHMENTS

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

1. Program for the 2019 Australian Local Government Women's Association National Conference

1. BACKGROUND

- 1.1 The Australian Local Government Women's Association (ALGWA) National Conference will be held at West HQ, The Rooty Hill RSL, Blacktown, New South Wales from 15-17 May 2019. The theme for the 2019 Conference is 'Celebrating 100 Years of Women'. The program is attached for information.

2. CONSULTATION / COMMUNICATION

2.1 Internal

- 2.1.1 Information concerning the Conference was provided to all Elected Members via LGA Circular 7.4 on 12 February 2019 and seeking registrations for attendance.

2.2 External

- 2.2.1 Nil.

3. REPORT

- 3.1 Elected Members were advised of the upcoming Conference via LGA Circular 7.4 on 12 February 2019 asking to register their interest in attending.
- 3.2 Cr Julie Woodman has expressed an interest in attending.
- 3.3 Anticipated costs associated with attending the ALGWA Conference 15 to 17 May 2019 are broken down as follows:

**ALGWA National Conference - West HQ, The Rooty Hill RSL, New South Wales
from 15-17 May 2019**

Anticipated costs			
Registration (early bird member: prior to 01/03/2019)	\$	900.00	additional \$100 for non-member
Return airfare	\$	700.00	approx.
Accommodation x 3	\$	657.00	approx.
Meals + incidentals	\$	150.00	approx.
CabCharge vouchers			?
		\$ 2,407.00	approx.

Funding

- 3.4 Costs for any Elected Member attending will be taken from their individual training and development allocation.
- 3.5 Cr Woodman currently has sufficient funds to cover the cost of her attendance.

4. CONCLUSION / PROPOSAL

- 4.1 Council is asked to approve the attendance of Cr Woodman at the ALGWA National Conference being held at West HQ, The Rooty Hill RSL, Blacktown, New South Wales from 15-17 May 2019.

CO-ORDINATION

Officer: MG
Date: 14/02/2019



IN PARTNERSHIP WITH



AUSTRALIAN LOCAL
GOVERNMENT WOMEN'S
ASSOCIATION



Travel & Accommodation

West HQ- The Rooty Hill RSL & Novotel

Blacktown is located approximately 34 kilometres west of Sydney, NSW. Delegates can fly into Sydney Airport on most airlines. Blacktown is approximately 45 minutes' drive from Sydney Airport. There are a number of coach services and airport transfers available.

Car Rental:

There are numerous car hire options available should delegates wish to arrange for their own travel experience. Car rental companies with offices in Sydney include Budget, Hertz and Thrifty.

Sydney Trains:

Trains depart Sydney Airport regularly. You will need to change to the Western Line Trains, at Central Station which depart from platform 18. You will exit the train at Rooty Hill Station, which is only a short walk to Novotel Rooty Hill, or use the Taxi service.

Weather

You will be visiting Blacktown during autumn, where there is an average minimum temperature at night of 10° Celsius and an average maximum temperature of 21° Celsius. Please ensure you bring appropriate clothing for autumn condition.

The Conference Venue

Rooty Hill RSL has been selected as the conference venue for 2019. Rooty Hill RSL Club is one of the largest clubs in NSW with over 50,000 members. There have been several major developments over the past three decades. The club has now grown to a 9-hectare footprint that's home to a multitude of businesses, including One55, Sydney Gymnastic and Aquatic Centre, Novotel Sydney West HQ, Chur Burger, Made By The Hill and the soon-to-be-launched Western Sydney Performing Arts Centre.

Accommodation

The beautifully renovated accommodation at Novotel Sydney, West HQ are among the most spacious hotel rooms in Australia. To ensure you receive the conference rate of \$219.00 per night (including breakfast)- please advise staff that you are attending the ALGWA Conference at the time of booking.



Novotel Sydney, West HQ

33 Railway Street,
Rooty Hill NSW 2766
(02) 9832 3888

reservations@novotelwesthq.com.au

Registration Packages

Early Bird- Full Conference (Non Member) \$ 1000.00 (inc GST)

Early bird applies to registrations made before 1 March 2019. Includes Welcome Reception, Fitness Activity, Day 2 & 3 conference sessions, Gala Dinner and Featherdale Breakfast. Morning/Afternoon tea and lunch daily.

Early Bird- Full Conference (Member) \$ 900.00 (inc GST)

ALGWA member price only. Early bird applies to registrations made before 1 March 2019. Includes Welcome Reception, Fitness Activity, Day 2 & 3 conference sessions, Featherdale breakfast and Gala Dinner. Morning/Afternoon tea and lunch daily.

Full Conference (Non Member) \$1100.00 (inc GST)

Includes Welcome Reception, Fitness Activity, Day 2 & 3 conference sessions, Featherdale breakfast and Gala Dinner. Morning/Afternoon tea and lunch daily.

Full Conference (Member) \$1000.00 (inc GST)

ALGWA member price only. Includes Welcome Reception, Fitness Activity, Day 2 & 3 conference sessions, Featherdale breakfast and Gala Dinner. Morning/Afternoon tea and lunch daily.

Day 2 & 3 Only (Non Member) \$900.00 (inc GST)

Includes Fitness Activity, Day 2 & 3 conference sessions, Gala Dinner, Featherdale Breakfast and morning/afternoon tea and lunch daily.

Day 2 & 3 Only (Member) \$800.00 (inc GST)

ALGWA member price only. Includes Fitness Activity, Day 2 & 3 conference sessions, Gala Dinner, Featherdale Breakfast and morning/afternoon tea and lunch daily.

Day 2 Only (Non Member) \$600.00 (inc GST)

Includes Fitness Activity, Day 2 Conference sessions, morning/afternoon tea, lunch and Gala Dinner.

Day 2 Only (Member) \$500.00 (inc GST)

ALGWA member price only. Includes Fitness Activity, Day 2 Conference sessions, morning/afternoon tea, lunch and Gala Dinner.

Gala Dinner Only \$150 (inc GST)

Gala Dinner only. Includes meals, drinks and entertainment on Thursday 16th May, 7pm-10pm.



Wednesday 15 May

2pm - 4 pm

Early Registrations

5.30 pm – 8.30 pm

Mayoral Reception

The Ponds Community Hub

Thursday 16 May

6.30 am – 7.30 am

Fitness Activity

Boomerang Room, The Rooty Hill RSL

8 am

Registrations Open

The Rooty Hill RSL
Exhibition Stalls Open

8.45 am

MC Welcome and Housekeeping

Jessica Rowe AM
Concept 33 Room

8:50 am

Welcome to Country

Julie Clark Jones
Traditional Custodian and Knowledge holder of fresh and saltwater clans of the Dharug

8.55 am

Mayor's Official Welcome

Councillor Stephen Bali MP
Mayor of Blacktown City

9.05 am

Welcome

Councillor Coral Ross
ALGWA National President

9.15 am – 10.15 am

Keynote Speaker

Libby Lyons
'100 Years of Women'
Director of Australia's Workplace Gender Equality Agency

10.15 am – 11.00 am

Kate Jenkins

Australian Sex Discrimination Commissioner



	
11.00 am – 11.30 am	Morning Tea
11.40 am – 12.20 pm	Victoria Weekes "Are we at a tipping point for gender equality?" Australian Gender Equality Council
12.20 pm – 1.00 pm	Discussion Panel: 'Equality at Work- The Ongoing Challenge' Polly Makim- Mosman Municipal Council Soraya Mahomed- Mosman Municipal Council Tessa Sullivan- City of Melbourne, Former Councillor
1 pm – 2 pm	Lunch Menu 33 Bar & Grill
2.00 pm – 3.15 pm	Workshops 1. Eleanor Shakiba- Dealing with difficult people 2. Rosalie O'Neale- E-Safety: Managing Risk and Staying Safe Online
3.20 pm – 3.50 pm	Conference Sponsor Gold Sponsor
3.50 pm – 4.10 pm	Afternoon Tea
4.15 pm – 4.45 pm	Donna Wallace 'Sustainability in our City' Manager Environment, Blacktown City Council
4.50 pm	Conference Day 2 Close
7 pm – 10 pm	Gala Evening Theme: 1920's The Rooty Hill RSL






Program

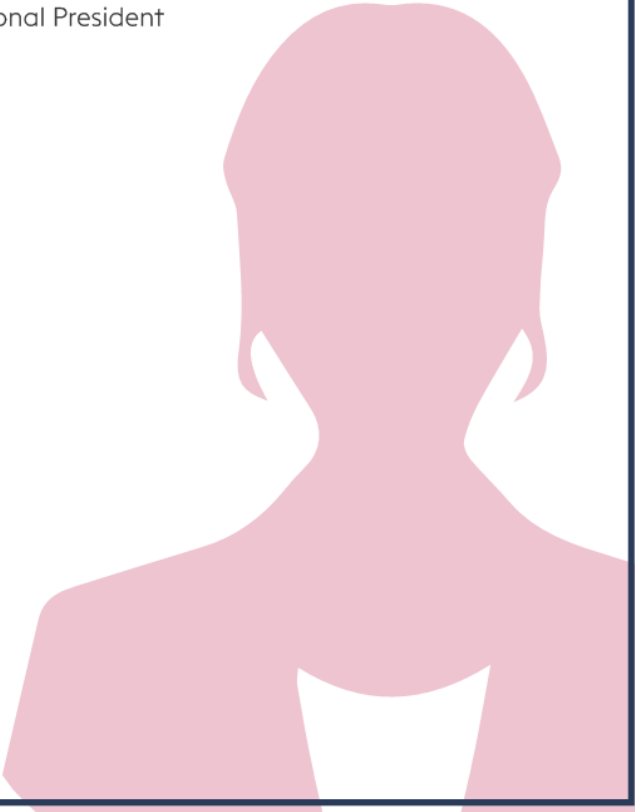
Friday 17 May

7.30 am – 9.00 am	Breakfast Function Featherdale Wildlife Park, Doonside
9.30 am – 9.45 am	House Keeping
9.45 am	Glennys James Assistant General Manager & Director Planning And Development, Blacktown City Council
10 am	Deborah Thomas 'Challenges & Opportunities: Careers, Motherhood and Dealing with Negative Publicity' Woollahra Municipal Council, former Councillor The Australian Women's Weekly, former Editor
11 am	Morning tea
11.30 am	Sponsor
11.45 am – 12.30 pm	Elfa Moraitakis Blacktown City Council 'Woman of the Year 2017'. CEO SydWest Multicultural Services
12.30 pm – 1.00 pm	Dharma Drumming Drumming with Purpose Jessica Varela- Blacktown City Council





1 pm – 2 pm	Lunch Menu 33 Bar & Grill
2 pm	Sponsor
2.15 pm – 3.15 pm	Question & Answer Open Mic Session
3.15 pm	2021 Conference Bids
3.30 pm	Closing Address Councillor Coral Ross ALGWA National President
4.00 pm	ALGWA AGM



ITEM	3.6.1
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Review of Enforcement Policy
AUTHORS	John Darzanos, Manager Environmental Health & Safety, City Development Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.4 To ensure informed and transparent decision-making that is accountable and legally compliant
SUMMARY	This report presents the Enforcement Policy to Council for consideration and endorsement. The Policy has been reviewed by the Policy Owner and only minor changes are required.

RECOMMENDATION

1. The Information be received.
2. The Enforcement Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.1, 18/02/2019), be endorsed.

ATTACHMENTS

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

1. Enforcement 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 April 2017 and is now due again for review.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Consultation with the Manager Environmental Health and Safety and General Manager City Development 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 Enforcement Policy has been reviewed by the Policy Owner. No changes of substance are required in the content of the Policy to ensure its continuing relevance with the exception of minor editing changes.

4. CONCLUSION / PROPOSAL

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

CO-ORDINATION

Officer: EXECUTIVE GROUP

Date: 11.02.19



Enforcement Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	2011/5222165, 2013/1926, 2017/1726
Approval Date:	27 April 2010	Last Reapproval Date:	24 April 2017 25 February 2019
Review Date:	27 April 2019 February 2021	Internal Reference No.:	
Department:	City Development	Division:	Environmental Health & Safety
Function:	3 – Legislative Compliance and Enforcement	Responsible Officer:	Manager, Environment Health & Safety

A - PREAMBLE

1. Local Government is charged with legislative responsibilities which protect individuals and the community as a whole. Council's customers include both those on whom the law places a duty and those whom the law protects. While it is ultimately the responsibility of individuals and other bodies to comply with the law, Council staff are required to carry out activities which enforce compliance.
2. This policy is an "umbrella" policy which outlines Council's approach to enforcement matters and provides staff with direction about the manner in which enforcement activities are to be undertaken.
3. In addition to enforcement, Council carries out a range of activities to ensure compliance such as community education programs to encourage conformance. Detailed policies and procedures about these specific activities may also apply.
4. Enforcement activities include:
 - a. patrolling streets and public places;
 - b. inspecting premises either on a routine programmed basis or on a random basis; and
 - c. responding to enquiries and complaints.

B - SCOPE

1. Applies to all enforcements under all legislation.

C – POLICY PURPOSE/OBJECTIVES

1. to provide consistency in enforcement action in matters of non-compliance;
2. to ensure transparency, procedural fairness and natural justice principles are applied; and

3. to ensure that enforcement action is proportionate to the alleged offence in each case.

D - DEFINITIONS

1. Council adopts a broad definition of “enforcement” which combines the provision of advice and assisting compliance with formal action where necessary. This is intended to encourage higher levels of voluntary compliance with legal requirements by individuals, businesses and other bodies.
2. Notwithstanding the above, Council will take immediate action when required (for example to ensure public health and safety or to protect the environment) and take firm action against those who act unlawfully when circumstances warrant.

E - POLICY STATEMENT

1. Principles of Good Enforcement

Enforcement actions are taken within the context of both a legal and policy framework. Council staff will carry out their enforcement related work with due regard to the following principles.

1.1. Proportionality

- 1.1.1. A proportionate response means that Council’s actions will be scaled to the seriousness of the breach.
- 1.1.2. Council recognises that most individuals want to comply with the law and will assist compliance by being open and helpful, offering informal advice and providing the chance to discuss compliance problems.
- 1.1.3. Attention will be focussed on those whose activities give rise to the most serious risks, or where potential hazards are least well controlled. Depending on the seriousness and persistence of the infringement, Council will enforce the minimum action necessary to secure future compliance.
- 1.1.4. Prosecution will generally be used for continuous or serious offences that pose a severe risk and hazard to the community.

1.2. Consistency

- 1.2.1. Council will take a consistent enforcement approach in similar cases.
- 1.2.2. While decisions on enforcement require the use of professional judgement and discretion to assess varying circumstances, officers will:
 - 1.2.2.1. follow standard operating procedures wherever applicable;
 - 1.2.2.2. ensure fair, equitable and non-discriminatory treatment; and
 - 1.2.2.3. record any deviation from standard operating procedures along with the reasons for the deviation.

1.3. Transparency

- 1.3.1. Council will be open and transparent about the manner in which it undertakes enforcement activities and the laws it enforces. It will consult on and provide ready access to published standards and levels of service and performance that can be expected and be clear and open about what is expected from those on whom the law places a duty (duty holders).
- 1.3.2. In educating the community at large and dealing with duty holders, Council will make a clear distinction between what is legally required

and what is desirable but not compulsory.

- 1.3.3. Staff will be open to discussing potential and actual compliance failures, before, during and after formal action has been taken.
- 1.3.4. When remedial action is needed Council will explain clearly and in plain language why the action is necessary. Where practicable or where required by legislation, it will give notice of its intent to commence formal action. It will point out what action is required to achieve compliance and the timeframe for undertaking that action. Advice will be provided on the process for seeking a review of, or how to appeal against that decision.
- 1.3.5. Where it is not practical to give notice, or where legislation requires immediate action, or where there is high risk or hazard from the offence, enforcement action will be commenced and the reasons why will be recorded in accordance with Council's Records Management protocols.
- 1.3.6. Complainants will be advised of what action has been taken and why that action has been taken.

2. Authorisation of Officers

- 2.1. Only authorised officers/persons who are competent by training, qualification and/or experience will be authorised to take enforcement action. Officers will also have sufficient training and understanding of Council's policies and procedures to ensure a consistent approach to their duties. Any decision to act other than in accordance with this policy must have approval from the relevant Manager and the reasons for action recorded in accordance with Council's Records Management protocols.
- 2.2. Officers are required to show their authorisations on demand (or as required by the specific Act they are administering).

3. Decision Making

- 3.1. Where non-compliance is discovered as a result of enforcement activities, options available to the Council to seek or promote compliance can include any or all of the following:
 - 3.1.1. explaining legal requirements and, where appropriate, the means to achieve compliance;
 - 3.1.2. providing an opportunity to discuss points of issue where appropriate;
 - 3.1.3. allowing reasonable timeframes to achieve compliance
 - 3.1.4. facilitating mediation between affected parties;
 - 3.1.5. issuing a verbal or written warning; or
 - 3.1.6. enforcement actions such as issuing an expiation, issuing an order/notice or instigating a prosecution.
- 3.2. Enforcement decisions must be fair, consistent, balanced and relate to common standards that ensure the public is adequately protected. Where a decision is made not to investigate a complaint, the decision and reasons, will be recorded in accordance with Council's Records Management protocols and the complainant will be advised.

- 3.3. In coming to a decision on the most appropriate means of enforcement, the officer shall consider, amongst other relevant factors:
 - 3.3.1. the seriousness of the offence;
 - 3.3.2. the degree of wilfulness involved;
 - 3.3.3. past history;
 - 3.3.4. the consequences of non-compliance;
 - 3.3.5. the likely effectiveness of the various enforcement options;
 - 3.3.6. deterrence;
 - 3.3.7. the effect on the community and other people; and
 - 3.3.8. consistency of approach to similar breaches/offences.
 - 3.4. The following principles should be exercised when choosing an enforcement strategy:
 - 3.4.1. No discrimination or bias against the person such as ethnicity, nationality, political association, religion, gender, sexuality or beliefs; and
 - 3.4.2. No political advantage or disadvantage to a government, person holding (or a candidate for) public office, or any political group or party.
 - 3.5. Where a personal association or relationship with the alleged offender or any other person involved exists:
 - 3.5.1. an alternative person will make decision; and
 - 3.5.2. the facts about any conflict/relationship will be recorded in accordance with Council's Code of Conduct and Records Management protocols.
 - 3.6. Written documentation will:
 - 3.6.1. include all the information necessary to make clear what needs to be done to comply with legal requirements, the required time frame and if necessary, the reasons for these actions and potential penalties for failing to comply with the request;
 - 3.6.2. include the legislation contravened, measures necessary to ensure compliance and the consequences of non-compliance; and
 - 3.6.3. clearly differentiate between legal requirements and recommendations of good practice.
- 4. Enforcement Options**
- 4.1. **No Action**
 - 4.1.1. No action will be taken when, after investigation, no breaches of the legislation are discovered.
 - 4.1.2. It may also be appropriate to take no action when:
 - 4.1.2.1. the complaint is frivolous, vexatious or trivial in nature;
 - 4.1.2.2. the alleged offence is outside Council's area of authority; or

4.1.2.3. taking action may prejudice other major investigations.

4.2. Informal Action

4.2.1. Informal action to achieve compliance with legislation may include:

4.2.1.1. offering verbal or written advice;

4.2.1.2. verbal warnings and requests for action; or

4.2.1.3. written warnings.

4.2.2. If written confirmation is required, advice from officers will be put clearly and simply.

4.2.3. The circumstances in which informal action may be appropriate include:

4.2.3.1. the act or omission is not serious enough to warrant formal action;

4.2.3.2. the duty holder's past history reasonably suggests that informal action will secure compliance;

4.2.3.3. confidence in the individual/other body is high;

4.2.3.4. the consequences of non-compliance will not pose a significant risk; or

4.2.3.5. where informal action may prove more effective than a formal approach.

4.2.4. Where statutory action is not possible, but it would be beneficial in a wider public safety context to urge a particular outcome, such action will be taken by a senior officer of Council and the reasons recorded in accordance with Council's Records Management protocols. The recipient will be made aware that the requested actions are not legally enforceable.

4.3. Mediation

4.3.1. Where practical, Council will suggest mediation. Mediation is a possible alternative where, after investigation, an officer determines that the problems being complained of are incapable of resolution through other formal or informal means. The use of mediation services may also be appropriate where an aggrieved individual has no wish to pursue action to resolve a complaint by legal means.

4.4. Formal Action

4.4.1. Service of Orders and Notices

4.4.1.1. Various pieces of legislation specify the procedures which Councils must follow, in order to:

4.4.1.1.1. advise of the intention to issue an Order/Notice;

4.4.1.1.2. invite submissions with respect to the matter;

4.4.1.1.3. order a person to do or refrain from doing a thing under specified circumstances; and/or

4.4.1.1.4. issue directions specifying how the Order/Notice may be complied with.

- 4.4.1.2. Council Officers will use professional judgement and discretion to assess the variables relating to each matter under consideration, including the reasonableness of the actions required by an Order/Notice and the timeframe to comply.
 - 4.4.1.3. Only in circumstances such as a threat to life or immediate threat to public health or safety or where legislation allows for immediate action, will an Order/Notice be made without giving notice of intention. In these circumstances immediate compliance to resolve a situation can be required.
 - 4.4.1.4. In most cases the person receiving the Order/Notice has a right of appeal to the appropriate court if the Order/Notice is considered unreasonable. If an Order/Notice is served for which an appeal is possible, Council will advise the recipient in writing of the right to appeal and the relevant legal provisions at the time of serving the Order/Notice.
 - 4.4.1.5. Where there is evidence that an offence has been committed Council may issue an Expiation Notice or launch a prosecution in addition to serving an Order/Notice. This will be done where it is determined that the conduct of the recipient and the nature of the offence justifies taking both steps.
- 4.4.2. **Action in Regard to a Default**
- 4.4.2.1. Failure to comply with an Order/Notice will incur further enforcement action such as expiation or prosecution.
 - 4.4.2.2. Where action in regard to a default is provided for by legislation and the necessary work has not been carried out in the time allowed without good reason, Council may undertake the required work. Before doing the work Council will consider whether there is a realistic prospect that the person responsible will complete the work within a reasonable time. Where work in default is undertaken Council will seek to recover all costs over a fair period, using all statutory means available.
 - 4.4.2.3. The decision to carry out action in default will be made by the Chief Executive Officer or delegate.
 - 4.4.2.4. Where an offence has been committed Council may issue an Expiation Notice or consider prosecution in addition to taking action to fulfil an Order/Notice. This will only be done where the conduct of the recipient justifies taking such steps. Factors such as giving false information, the obstruction of Council staff and the harm or risk of harm caused by the recipient's delay will be considered in determining additional enforcement actions.
- 4.4.3. **Service of an Expiation Notice**
- 4.4.3.1. A person receiving an Expiation Notice is entitled to elect to

be prosecuted for the alleged offence. Hence there must be substantial, reliable and admissible evidence that an identifiable person or organisation has committed the alleged offence. There must be sufficient evidence to enable a conclusion to be reached that there is a reasonable prospect of being able to prove an offence beyond reasonable doubt.

4.4.3.2. The following circumstances are likely to warrant an Expiation Notice:

- 4.4.3.2.1. Direct breaches of legislation administered by Council, where the nature of the offence is recurrent and requires continual enforcement action;
- 4.4.3.2.2. Direct breaches of legislation administered by Council where the officer has considered amongst other relevant factors, the factors listed in Clause 3.3
- 4.4.3.2.3. Failure to correct an identified problem after having been given reasonable opportunity to do so by an Authorised Officer;
- 4.4.3.2.4. Failure to comply with the requirements of an Order/Notice;
- 4.4.3.2.5. Confidence in the individual/other body is low; or
- 4.4.3.2.6. A written warning has been given for a similar offence.

4.4.4. Prosecution

4.4.4.1. A prosecution will only proceed where there is a reasonable prospect that an offence can be proved beyond reasonable doubt. The following circumstances are likely to warrant a prosecution:

- 4.4.4.1.1. a flagrant breach of the law such that public health, safety and welfare have been put at risk;
- 4.4.4.1.2. the alleged breach is too serious or the risks too great to be dealt with by means of an expiation;
- 4.4.4.1.3. a failure to correct an identified serious problem after having been given reasonable opportunity to do so;
- 4.4.4.1.4. a failure to comply with the requirements of an Order/Notice;
- 4.4.4.1.5. an established and recorded history of similar offences;
- 4.4.4.1.6. an unwillingness, on the part of the individual or other body, to prevent a recurrence of the

- problem; or
- 4.4.4.1.7. the recovery of the costs of the investigation or remedial work or financial compensation that are required by Council or an aggrieved party.
- 4.4.4.2. Where circumstances warrant a prosecution all relevant evidence and information will be considered to enable a consistent, fair and objective decision to be made.
- 4.4.4.3. Before a prosecution is recommended there must be substantial, reliable and admissible evidence that an identifiable person or organisation has committed the offence.
- 4.4.4.4. A decision to prosecute must be in the public interest. In considering whether prosecution is in the public interest, the following additional factors will be considered:
 - 4.4.4.4.1. whether the offence was premeditated;
 - 4.4.4.4.2. the need to influence the offender’s future behaviour;
 - 4.4.4.4.3. the effect on the offender’s or witness’s physical or mental health, balanced against the seriousness of the offence;
 - 4.4.4.4.4. the availability and efficacy of any alternatives to prosecution;
 - 4.4.4.4.5. the prevalence of the alleged offence and the need for deterrence, both personal and general; and
- 4.4.4.5. The final decision to prosecute will be made by the Chief Executive Officer or delegate.

F - LEGISLATION

- 1. *Local Government Act 1999*

H - ASSOCIATED PROCEDURES

- 1. Divisional Standard Operating Procedures

Document Control

Document ID	Enforcement Policy
Prepared by	John Darzanos
Release	56.00
Document Status	Draft
Date Printed	

ITEM	3.6.2
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Review of Private Parking Areas Act - Private Parking Agreements Policy
AUTHORS	John Darzanos, Manager Environmental Health & Safety, City Development Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.4 To ensure informed and transparent decision-making that is accountable and legally compliant
SUMMARY	This report presents the Private Parking Areas Act - Private Parking Agreements Policy to Council for consideration and endorsement. The Policy has been reviewed by the Policy Owner and no changes of substance are required.

RECOMMENDATION

1. The Information be received.
2. The Private Parking Areas Act - Private Parking Agreements Policy as set out in Attachment 1 to this report (Item No. 3.6.2, Resources and Governance Committee, 18/02/2019), be endorsed.

ATTACHMENTS

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

1. Private Parking Areas Act - Private Parking Agreements 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 April 2017 and is now due again for review.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Consultation with the Manager Environmental Health and Safety 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 Private Parking Areas Act - Private Parking Agreements Policy has been reviewed by the Policy Owner. No changes of substance are required in the content of the Policy to ensure its continuing relevance with the exception of minor editing changes.

4. CONCLUSION / PROPOSAL

- 4.1 The Private Parking Areas Act - Private Parking Agreements Policy as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer: EXECUTIVE GROUP
Date: 11.02.19



Private Parking Areas Act - Private Parking Agreements

Policy Type:	Policy		
Approved By:	Council	Decision No:	2012/1260, 2014/0050, 2017/1730
Approval Date:	22 October 2012	Last Reapproval Date:	24 April 2017 25 February 2019
Review Date:	April 2019 February 2021	Internal Reference No.:	
Department:	City Development	Division:	Environmental Health & Safety
Function:	20 - Traffic	Responsible Officer:	Manager, Environmental Health & Safety

A - PREAMBLE

1. The Private Parking Areas Act 1986 regulates, restricts or prohibits the use by the public of private access roads, private walkways, and private parking areas, and makes special provision for the enforcement of provisions relating to private parking areas.

B - SCOPE

1. This Policy applies to Private Parking Areas that are within the City of Salisbury
2. This Policy applies to all Private Parking Areas that are within the City of Salisbury that are subject to a Private Parking Agreement

C – POLICY PURPOSE/OBJECTIVES

1. The objectives of this policy are to:
 - a. Ensure that Private Parking Area Agreements give consideration to the broader community benefit of managing car parking, so as to assist in achieving strategic objectives associated with equitable and accessible car parking within City Centre Precincts and the areas surrounding the private car parking area.
 - b. Establish and clarify the role and obligations of both Council and the owners of Private Parking Areas when applying for an agreement and when an agreement has been entered into.
 - c. Clarify the enforcement responsibilities of both Council and non council authorised staff in relation to Private Parking Areas.
 - d. Ensure that the enforcement of Private Parking Areas is undertaken in line with the enforcement principles as established in Councils enforcement policy

D - DEFINITIONS

The Act means the *Private Parking Areas Act 1986*

authorised officer means a person who is an authorised person for the purposes of the *Local Government Act 1999* and includes a member of the police force;

council means a council as defined in the *Local Government Act 1999*;

council area means the area in relation to which a council is constituted;

owner, in relation to land, means—

- (a) the holder of an estate in fee simple in that land;
- (b) where the land is subject to a registered estate or interest conferring a right to possession—the proprietor of that estate or interest;
- (c) where the land consists of a registered easement or right of way—the proprietor of the easement or right of way;
- (d) where the land is not alienated from the Crown—the Minister or instrumentality of the Crown that has the care, control and management of the land,

private parking area means an area—

- (a) provided on land by the owner for the parking of vehicles used by persons frequenting premises of the owner; and
- (b) marked by a notice denoting it as a private parking area,

(and an area is capable of constituting a private parking area notwithstanding that certain parts of that area are no standing areas);

Enforcement policy means City of Salisbury Enforcement Policy as approved by the City of Salisbury

Non council authorised officer means a person who is not an employee of Council, but is nominated by the owner of the Private Parking Area to be an authorised person for the purposes of enforcing the provisions of the Private Parking Area Act as it relates to their private parking area. The non council authorised officers are authorised by the City of Salisbury under the *Local Government Act 1999*.

E - POLICY STATEMENT**Restrictions**

1. Under Part 3 of the Act the owner of a private parking area may by a notice or notices exhibited at or near each entrance to the private parking area impose time limits on the parking of vehicles in the private parking area.
2. The owner of a private parking area may set aside any part of the private parking area as—
 - a. a disabled persons parking area (accessible car parking spaces);
 - b. a loading area;
 - c. a no standing area;
 - d. a restricted parking area;
 - e. a permit parking area.
3. The owner of a private parking area must also comply with the requirements of the Building Code of Australia and Disability Discrimination Act in relation to accessible car parking spaces.

Application for Agreement

4. The owner of a private parking area and the Council for the area in which the private parking area is situated may make an agreement for the enforcement of the provisions of Part 3 of the Act in relation to that private parking area by council authorised staff.
5. An application for an agreement shall be made to Council in the manner specified by Council on the Application form and may include a fee for the application as determined by Council.
6. The application shall include information that will enable Council to make an informed decision on the need for an agreement and the benefits of an agreement to the owner of the private parking area and to the community, including, (but not limited to) the following:
 - a. Reason for application (including the need and benefits to be provided from the agreement)
 - b. Total number of parking spaces and number of disable parking spaces
 - c. Time limit(s) proposed
 - d. Number of permit zones proposed and type of permit zones proposed
 - e. Other restrictions: eg Loading zones, no standing, or restricted parking
 - f. Number of spaces not subject to restrictions (for staff and other)
7. As part of the application, the applicant may be required to undertake further assessment of car parking usage and demand in the applicants parking area and in proximity to the Private Parking Area and consideration of adjoining private and public parking capacity and demand, along with traffic movements.

Enforcement

8. Enforcement of the Private Parking Areas Act agreement shall only be carried out by authorised officers.
9. Council authorised officers shall undertake enforcement at times and frequencies to be determined by Council. Enforcement shall be subject to staff availability and other priorities at the time.
10. Enforcement action will be undertaken to ensure that private parking areas are;
 - a. Effectively managed to ensure compliance with the Private Parking Areas Act(giving consideration to point 10 below)
 - b. Utilised by the intended users of the parking area, namely shoppers, employees and other members of the community as identified
11. Enforcement action will give consideration to Councils Enforcement Policy, including, (but not limited to) the following:
 - a. the car park capacity at the time of the patrol (is there sufficient vacancies at the time of the patrol)
 - b. Car parks with 50 or more spaces, that have approximately 25% vacancy throughout the day or at the time of the patrol should not warrant enforcement action, unless the area is a;
 - i.no standing or loading zone,
 - ii.Disabled persons parking area, or
 - iii.permit parking area
 - c. Adequate notification and information has been provided to staff to utilise the appropriate areas
 - d. Adequate notification and information has been provided to the general community to utilise the appropriate areas
12. Non Council authorised officers shall apply the above principles to enforcement.

Non Council Authorised Officers

13. Only officers who are competent by training, qualification and/or experience will be authorised to take enforcement action.

14. Officers will also have sufficient training and understanding of Council's policies and procedures to ensure a consistent approach to their duties.
15. Officers will be issued with an authority card and identification.
16. Officers are required to show their authorisations on demand.
17. Non Council authorised officers that are deemed to require further training shall be required to attend additional training as required by Council or the relevant Council staff.
18. Non Council authorised officers that are deemed to be issuing expiations that are not in accordance with the enforcement principles above shall have their authorisations revoked and any expiation issued will be subject to review.
19. Any requirements for further training may include a fee as determined by Council.

Agreements

20. An application for an agreement and the provision of all relevant information does not bind Council into entering into an agreement.
21. Council reserves the right to reject applications and or offer alternative parking restrictions for consideration.

F - LEGISLATION

1. Private Parking Areas Act 1986
2. Private Parking Areas Regulations 2014
3. Expiation of Offences Act 1996
4. Building Code of Australia
5. Disability Discrimination Act

G - REFERENCES

- 1.

H - ASSOCIATED PROCEDURES

1. Private Parking Areas Act Application Form
2. Private Parking Areas Act Agreement
3. Authorised Officers Awareness Training – Local Government Act 1999

Document Control

Document ID

Private Parking Areas Act - Private Parking Agreements

Prepared by

John Darzanos

Release

34.00

Document Status

Draft

Date Printed

ITEM	3.6.3
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Review of Extreme Heat Policy
AUTHORS	Vesna Haracic, Manager Community Health & Wellbeing, Community Development Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.4 To ensure informed and transparent decision-making that is accountable and legally compliant
SUMMARY	This report presents the Extreme Heat Policy to Council for consideration and endorsement. The Policy has been reviewed and no changes of substance are required.

RECOMMENDATION

1. The Information be received.
2. The Extreme Heat Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.3, 18/02/2019), be endorsed.

ATTACHMENTS

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

1. Extreme Heat Policy

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 2017 and is now due again for review.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Consultation with staff as to the continuing relevance of the policies and any changes that may be required.
- 2.2 External
 - 2.2.1 Nil

3. REPORT

- 3.1 The Extreme Heat Policy has been reviewed by the Policy Owner. No changes are required in the content of the Policy to ensure its continuing relevance.

4. CONCLUSION / PROPOSAL

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

CO-ORDINATION

Officer: Executive Group
Date: 11/02/2019



Extreme Heat Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	2011/2341, 2015/0238, 2017/1668
Approval Date:	23 August 2010	Last Reapproval Date:	27 March 2017 <u>25 February 2019</u>
Review Date:	March 2019 <u>February 2021</u>	Internal Reference No.:	
Department:	Community Services	Division:	Community Health and Wellbeing
Function:	17 - Social Cultural and Community Services	Responsible Officer:	Manager, Community Health and Wellbeing

A - PREAMBLE

1. The City of Salisbury is committed to the promotion of community awareness and education regarding the impacts associated with extreme heat conditions and the measures that can be adopted to mitigate those impacts.
2. While hot days in summer are generally expected within South Australia, it is important that people are aware of the debilitating impact extreme hot weather can have on their general well being.
3. The State Emergency Service (SASES) as the Hazard Leader for Extreme Weather Events under the State Emergency Management arrangements and key South Australian Government Departments have worked together to prepare a whole of government Extreme Heat Plan which ensures a coordinated approach to increasing community preparedness, awareness and response to extreme heat events.
4. The *Local Government Act 1999*, *Work Health and Safety Act 2012*, *South Australian Public Health Act 2011* and the *Emergency Management Act 2004* provide for Local Government to play a role in Extreme Weather Planning by promoting community awareness and education regarding the dangers and measures that can be adopted to mitigate the effects.

B - SCOPE

1. This Policy applies to all Staff, Volunteers and Elected Members of the City of Salisbury.

C – POLICY PURPOSE/OBJECTIVES

1. This Policy:
 - a. defines the City of Salisbury's commitment to supporting the community in relation to managing the impact of extreme heat conditions.

- b. Sets out the role of Council in the provision of information and services to the Salisbury community during extreme heat conditions.

D - DEFINITIONS

1. **Extreme Heat** – is determined in accordance with criteria established by the Bureau of Meteorology using the average daily temperature (ADT). The ADT is calculated for each day by adding the forecast maximum daytime temperature in degrees with the overnight temperature in degrees and dividing the result by two. For example, a 32C degree maximum daytime temperature and a 24C degree overnight temperature will provide an ADT of 28C degrees.
2. **Heatwave** – within South Australia the criteria for a heatwave (as specified by the Bureau of Meteorology) is 5 consecutive days with maximum temperatures of 35°C or more, or 3 days of 40°C or more.

E - POLICY STATEMENT

1. Council will provide support or assistance as requested by the SA State Emergency Service or State Government in response to extreme heat events and in accordance with the Extreme Heat Plan.
2. To ensure the best use of Council resources, emphasis will be placed on complementing and supporting existing services provided by State/Commonwealth Government Agencies and specialist organisations funded to support vulnerable members of the community, rather than the provision of 'duplicate' services.
3. Council will provide community awareness and emergency management information in local settings of vulnerable populations via existing programs and services. This will include the distribution of materials prepared by the SA State Emergency Service, State Government and specialist organisations in relation to extreme heat events as well as publication of information on the City of Salisbury website, within the Salisbury Aware Magazine and through other Council media channels as appropriate.

F - LEGISLATION

1. *Local Government Act 1999*
2. *Work health and Safety Act 2012*
3. *South Australian Public Health Act 2011*
4. *Emergency Management Act 2004*

G - REFERENCES

1. Extreme Heat Plan – SA State Emergency Services
2. Extreme Heat Guide for Local Government November 2016

Document Control

Document ID	Extreme Heat Policy
Prepared by	Vesna Haracic
Release	56.00
Document Status	Draft
Date Printed	

ITEM	3.6.4
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Review of Naming of Roads and Public Places Policy
AUTHORS	Chris Zafiroopoulos, Manager Development Services, City Development Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	This report presents the Naming of Roads and Public Places Policy to Council for consideration and endorsement. The Policy has been reviewed no changes are required.

RECOMMENDATION

1. The Information be received.
2. The Naming of Roads and Public Places Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.4, 18/02/2019), be endorsed.

ATTACHMENTS

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

1. Naming of Roads and Public Places Policy

1. BACKGROUND

- 1.1 The changing of names for roads and public places occurs infrequently and involves the consultation with affected parties and prescribed stakeholders.
- 1.2 Council's Policy Framework provides for Council Policies to be reviewed within 12 months of a general election and thereafter every two years.
- 1.3 The Naming of Roads and Public Places Policy was last reviewed in January 2017 and is now due for review.

2. CONSULTATION / COMMUNICATION

2.1 Internal

- 2.1.1 Consultation with staff 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 Naming of Roads and Public Places Policy has been reviewed by the Policy Owner. No changes of substance are required at this time in the content of the Policy to ensure its continuing relevance.

4. CONCLUSION / PROPOSAL

- 4.1 The Naming of Roads and Public Places Policy as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer: EXECUTIVE GROUP

Date: 11.02.19



Naming of Roads and Public Places Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	2010/2208, 2011/262 2012/1019, 2015/0123, 2017/0030
Approval Date:	24 May 2010	Last Reapproval Date:	30 January 2017
Review Date:	27 January 2019	Internal Reference No.:	
Department:	City Development	Division:	Development Services
Function:	14 - Infrastructure	Responsible Officer:	Manager, Development Services

A - PREAMBLE

A Council has the power under section 219 of the *Local Government Act 1999* (the LG Act) to assign a name to, or change the name of:

- a public road;
- a private road; and
- a public place.

B - SCOPE

This policy applies to all sealed public roads, all formed public roads within the Council area that are regularly accessed, all formed private roads that are accessible to the public (subject to specified criteria) and public places within the City of Salisbury.

C – POLICY PURPOSE/OBJECTIVES

Council *must* assign a name to each public road created by land division.

It is Council's policy that all sealed public roads and all formed public roads within the Council area that are regularly accessed will be assigned a name. This does not include 'unmade' road reserves.

All formed private roads that are accessible to the public (with the exception below) will also be assigned a name. This includes roads within complexes such as universities, hospitals, retirement villages, and roads in forests or parks etc. Private roads with five or less property addresses do not need to be named. In these cases address numbers will be assigned off the road that the private road connects to.

All roads that can be used as part of an address for an address site will be assigned a name.

Road name signs that identify each public road will, as far as practicable, be placed at every road intersection and will clearly indicate the road to which it applies.

D - DEFINITIONS

Nil

E - POLICY STATEMENT

1. Initiating the Road and Public Place Naming Process

A road naming or public place naming process may be initiated if:

- a request is received by the Council from a Government agency (such as DPTI);
- a request is received by the Council from an affected land owner or their agent;
- Council resolves that a name change be investigated;
- Council staff determine it is in the public interest to investigate a change in road name;
- Council opens or forms a road or public place; or
- Council receives an application for a land division.

2. Names of Roads and Public Places

In the naming and renaming of public roads or public places, the following principles will be observed.

2.1 Uniqueness

- a) A road or public place will have only one name.
- b) A road name will be unique within an official suburb, postcode or rural locality. Duplicate road names within a suburb/locality will be resolved in order to avoid confusion (eg emergency services response).
- c) Roads that are maintained by the Department for Planning, Transport and Infrastructure (DPTI) will be named by DPTI. Council will consult with DPTI in relation to naming these roads.
- d) Duplicate names and similar sounding names (e.g. Paice, Payce or Pace Roads) within a suburb or locality will be avoided where possible.
- e) If possible, duplication of names in proximity to adjacent suburb or locality will also be avoided. However, roads crossing Council boundaries should have a single and unique name.
- f) Wherever practicable, road names will be continuous from the logical start of the road to the logical end of the road, irrespective of Council boundaries, landforms and intersecting roads.

2.2 Name Sources

Sources for road names or public places may include:

- Aboriginal names taken from the local Aboriginal language;
- early explorers, pioneers, and settlers;
- eminent persons;
- local history;
- thematic names such as flora, fauna, ships etc;
- war/casualty lists; and
- commemorative names.

Names will be selected so as to be appropriate to the physical, historical or cultural character of the area concerned.

The local Aboriginal community will be consulted when choosing Aboriginal names or using words from relevant Aboriginal languages.

2.3 Propriety

Names of living persons will be avoided.

Names, which are characterised as follows, will not be used.

- Offensive or likely to give offence;
- Incongruous - out of place; or
- Commercial or company.

2.4 Communication

Names will be reasonably easy to read, spell and pronounce in order to assist service providers, emergency services and the travelling public.

Unduly long names and names composed of two or more words should be avoided:

- a given name will only be included with a family name where it is essential to identify an individual or where it is necessary to avoid ambiguity. The use of given names will generally be avoided;
- whilst street and cul-de-sac names should have only one word, it is recognised that some roads require a two word name because of their geographic relationship e.g. Proof Range Road;
- roads with double destination names will be avoided.

2.5 Spelling

Where it is intended that a road have the same name as a place or feature with an approved geographical name, particular care will be taken to ensure that the correct spelling of the official place name is adopted as shown in the State Gazetteer.

Where the spelling of names has been changed by long established local usage, unless there is a particular request by the local community to retain the original name, the spelling that is sanctioned by general usage will be adopted.

Generally road names proposed or approved will not contain abbreviations e.g. the “Creek” in “Wallaby Creek Road” must not be abbreviated. There are, however, two exceptions, “St” will always be used in place of “Saint” and it is acceptable to use “Mt” for “Mount”.

2.6 Form

The apostrophe mark ‘ will be omitted in the possessive case e.g. “Smith’s Road” will be “Smiths Road”.

Names will avoid the use of the possessive “s” unless the euphony becomes harsh e.g. “Devil Elbow”.

The use of hyphens will be avoided. However, hyphens may be used when naming a road after a person with a hyphenated name.

2.7 Type of Road

Road names will include an appropriate road type suffix conforming to the following guidelines:

3.6.4 Naming of Roads and Public Places Policy

- The suffix chosen will be compatible with the class and type of road. Assistance to both the motorists and pedestrians is a major consideration in choosing the suffix.
- When a suffix with a geometric or geographic connotation is chosen it will generally reflect the form of the road, eg,
 - Crescent - a crescent or half-moon, re-joining the road from which it starts;
 - Esplanade - open, level and often along the seaside or a river.
- For a cul-de-sac use Place, Close, Court or a suffix of similar connotation.
- Highway (HWY) will be specifically reserved for roads associated with the state arterial road network. Its use will be restricted to roads of strategic importance constructed to a high standard.

The following list of suitable road type suffixes is included as examples. [The list has been sourced from Australian Standards AS 1742.5 - 1986 and AS4212 – 1994. An expanded road type list and acceptable abbreviations can be sourced from AS 4590:2006. In most instances the connotations are clear but where necessary a definition can be checked in a dictionary.] Only road types shown in the standards documents will be used.

Alley	Avenue	Boulevard	Bypass
Circle	Circuit	Circus	Close
Court	Crescent	Drive	Arcade
Grove	Lane	Mews	Parade
Parkway	Place	Plaza	Promenade
Road	Row	Square	Street
Terrace	Walk	Way	

2.8 *No Prefix or Additional Suffix*

The use of a compass point prefix/suffix or an additional suffix such as “north” or “extension” will be avoided, particularly where new roads are to be named. Where an existing road is subsequently bisected as a result of traffic management planning or some other reason, it may be appropriate to delineate each half of the road by the addition of a compass point suffix for the purposes of assisting the community and the emergency services to locate the appropriate part of the road.

3. Naming of Private Roads

This policy covers all formed roads that are regularly accessed and therefore includes private roads. Private land owners are not obliged to seek Council approval for naming their roads. However, there is a public interest in encouraging private land owners and developers to select suitable names, preferably in accordance with this policy, and to obtain Council endorsement for the name. Where Council proposes to assign a name to a private road it will consult with the owner of the land over the proposed name and the signage requirements for the road.

4. Consultation with Adjoining Councils

If a Council decides to change the name of a public road that runs into the area of an adjoining Council, the Council will give the adjoining Council at least two months notice of the proposed change and consider any representations made by the adjoining Council in response to the notice. [See section 219(2) of the Local Government Act 1999]

5. Public Notice of Name Assignment or Change

Council will give public notice of the assigning or changing of a road name or public place. This will be by publication in the Government Gazette and by notice in a newspaper circulating generally throughout the State, as required under the Local Government Act 1999. Public notice will include

the date that the new name takes effect and notice will also be published on the Council's website www.salisbury.sa.gov.au.

Public consultation is not required where a name is being assigned to a new road created via a land division. When Council is approving names proposed by applicants for land division, consideration will be given to the provisions of this policy.

6. Advise Relevant Parties of New Name or Name Change

Council will provide written notice (e.g. by email) of Council's decision on a new road name or name change to all relevant parties, including:

- Registrar-General;
- Surveyor-General;
- Valuer-General [see section 219(3)(a) of the *Local Government Act 1999*];
- the owner of the road (if a private road);
- owners of abutting properties;
- Australia Post;
- Telstra;
- SA Water;
- ETSA Utilities;
- SA Police;
- SA Ambulance Service; and
- SA Metropolitan Fire Service and/or Country Fire Service.

7. Date of Effect for New Names or Name Changes

The date of effect of the new or changed road name or public place will be determined at the time the decision to assign the name is made so as to allow sufficient time for all stakeholders to make arrangements to ensure a smooth transition.

The date of effect will be determined after considering:

- In respect of renaming an existing road, the impact on existing property owners, residents, tenants and occupiers. For example the time required to advise relevant parties to change letterhead stationery and advertising references;
- Potential confusion for people using maps and street directories that effectively become out of date; and
- The desire of some developers to sell property 'off the plan' and the opportunity for new owners to know their future address at an early stage.

Council will update the Register of Public Roads as required by section 231 of the *Local Government Act 1999*.

8. Road Name Signage

Council will ensure road naming signage in accordance with the relevant Australian Standard (AS 1742.5 – 1997) is erected. (Signage may be erected during construction of a sub-division).

Note: Signage for State road names is the responsibility of DPTI.

9. Monitor and Review of Policy

3.6.4 Naming of Roads and Public Places Policy

This policy will be regularly monitored and reviewed every 2 years, or more frequently as required. Public notice will be given of adopting or altering this policy. [See section 219(7) of the Local Government Act 1999]

F - LEGISLATION

Local Government Act 1999 (Section 219)

1. Document Control

2. Document ID	3. Naming of Roads and Public Places Policy
4. Prepared by	5. Chris Zafiropoulos
6. Release	7. 4.00
8. Document Status	9. Draft
10. Date Printed	11.

ITEM	3.6.5
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Review of Building and Swimming Pool Inspection Policy
AUTHORS	Chris Zafiroopoulos, Manager Development Services, City Development Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.3 Have robust processes that support consistent service delivery and informed decision making.
SUMMARY	This report presents the Building and Swimming Pool Inspection Policy to Council for consideration and endorsement. The Policy has been reviewed and only minor changes are required.

RECOMMENDATION

1. The Information be received.
2. The Building and Swimming Pool Inspection Policy as set out in Attachment 1 to this report (Resources and Governance, 18/02/2019), be endorsed.

ATTACHMENTS

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

1. Building and Swimming Pool Inspection Policy

1. BACKGROUND

- 1.1 The inspection of buildings/development is part of the overall Development Services provided by Council.
- 1.2 Council is required to prepare and adopt a:
 - 1.2.1 Building Inspection Policy for the classes of buildings prescribed by the Development Regulations 2008 (pursuant to section 71A(1) of the Development Act);
 - 1.2.2 Swimming pool inspection policy (pursuant to section 71AA(7) of the Development Act); and
 - 1.2.3 Minimum inspection rate as prescribed by regulation 76D(4b) and regulation 80AB(2) of the Development Regulations 2008.
- 1.3 Council's Policy Framework provides for Council Policies to be reviewed within 12 months of a general election and thereafter every two years.
- 1.4 The Policy was last reviewed in October 2016 and is now due for review.

2. CONSULTATION / COMMUNICATION

2.1 Internal

2.1.1 Consultation with staff 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 Building and Swimming Pool Inspection Policy has been reviewed by the Policy Owner. No changes of substance are required in the content of the Policy at this time to ensure its continuing relevance.

4. CONCLUSION / PROPOSAL

4.1 The Building and Swimming Pool Inspection Policy as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer: EXECUTIVE GROUP

Date: 11.02.19



Building and Swimming Pool Inspection Policy

Policy Type: Policy

Approved By:		Decision No:	1389/2016, xxxx/2019
Approval Date:	24 October 2016	Last Reapproval Date:	<u>28 January 2019</u>
Review Date:	October 2018 <u>January 2021</u>	Internal Reference No.:	
Department:	City Development	Division:	Development Services
Function:	3 - Development Control	Responsible Officer:	Manager, Development Services

A - PREAMBLE

The Development Act 1993 (the Act) requires Council to have a building inspection policy and a swimming pool inspection policy. The policy must set the level of inspections and the criteria used to select buildings to be inspected.

B - SCOPE

This Policy applies to all development approvals issued for the Council area.

C – POLICY PURPOSE/OBJECTIVES

To establish guidelines in relation to the inspection of building work within the Council area that fosters a safe built environment in accordance with community expectations and Councils statutory obligations.

D - DEFINITIONS

Words and phrases defined by the Act and associated regulations have the same meaning when used in this Policy.

In addition, the following words and phrases defined:

Audit inspection

an *inspection* which determines (within the scope of the inspection and only insofar as the inspection is able to do so) whether or to what degree the inspected building work complies with:

- the relevant development approval or any applicable exemption
- if applicable, any other relevant documents (for example a required checklist)

an audit inspection does not involve any assessment of building work against the building rules at large, nor any assessment of the structural or functional adequacy of any building work.

Inspection

A comparison by an *inspector* (with or without assistants) of

- (a) visual observations of that building work, and
- (b) measurements of selected parts of that building work,

with:

- the plans and details (if any) which form part of a development approval (or exemption) which relates to that building work, and
- if applicable, any other relevant documents (for example a required checklist)

and may include the interview of any person associated with the building work.

Building Surveyor/s/Building Officer/s

An authorised officer of the Council, appointed under Section 18 of the Development Act.

Person

Includes all legal persons including bodies corporate.

Except within the above table, where this Policy refers to an inspection that is a reference to an audit inspection as defined above. Where this Policy uses the word “inspect”, that means “undertake an audit inspection”.

E - POLICY STATEMENT

1) *Level of Building Inspection*

In accordance with ~~the relevant provisions~~ Division 6A of the Act, this Policy specifies the following minimum inspection levels for all classes of buildings, other than Class 10 buildings which are not attached to any part of the roof framing of a building of another class.

a) Buildings Involving the Construction of Roof Framing

Where the building work involves the construction of any roof framing within the area of the Council:

- i) A number of inspections equal to 66% of the building rules consents issued over the course of the year for building work involving the construction of any roof framing where a licensed building work contractor is responsible for the relevant building work; and
- ii) A number of inspections equal to 90% of the building rules consents issued over the course of the year for building work involving the construction of any roof framing where a licensed building work contractor is not responsible for the relevant building work.

b) New Swimming Pools

Where the building work involves the construction of a swimming pool (including safety fences and barriers associated with such swimming pools) within the area of the Council the number of inspections equal to 100% of the building rules consents issued over the course of the year for building work involving the construction of swimming pools. Of these:

- i) at least 80% of swimming pools will be inspected within 2 weeks of Council being notified of completion of the permanent swimming pool child-safety barriers;
- ii) No more than 20% of swimming pools will be inspected within 2 months of Council being notified of the completion of the permanent swimming pool child-safety barriers.

c) Existing Swimming Pool Inspection Program

Council will inspect existing pools within the Council area where the property owner has requested that Council undertakes the inspection.

2) *Counting inspections*

The number of buildings rules consents issued over the course of the year will not be known until the end of the year. By that time it will be too late to determine whether there is a shortfall between the number of inspections conducted and the prescribed minimum levels.

Council will establish an inspection target based on the previous 12-month development approvals and will set target minimum levels on a month-by-month basis, with the aim to make up any for shortfall where possible.

3) *Notification*

For the purpose of compliance with the Act and the effective implementation of the Policy, the required notifications prescribed in section 59 of the Act and regulation 74(1) will be required.

The notifications require a person undertaking building work to give Council generally one days' notice of the commencement or completion of nominated stages of building work and the submission of prescribed forms.

4) *Criteria for selection of Buildings to be Inspected*

Criteria for determining which building approvals will be inspected includes:

- Legislative requirements
- Whether or not the building work is being undertaken by an owner builder or a registered builder. Where the work is being undertaken by a registered builder, the reputation of the builder and the experiences Council in dealing with the builder.
- Local environmental factors relative to the area in which the building work is being undertaken (e.g. wind speeds, flooding, poor soil conditions).
- Whether the building work was approved conditionally or unconditionally.
- Any other reason for which, in the professional opinion of Council's authorised officers, the building work should be inspected.

5) *Monitoring and Reporting*

Detailed records will be kept accounting for the performance of Council in meeting the requirements of this policy. On an annual basis, the following details, measured against the policy, will be reported to Council.

- Number of building consents/development approvals issued.
- The number of inspections performed in each of the categories detailed in the policy.
- The number of sites where non-compliance was detected.

F - LEGISLATION

Development Act 1993

G - REFERENCES

Nil

H - ASSOCIATED PROCEDURES

1. Council's Enforcement Policy

Document Control

Document ID	Building and Swimming Pool Inspection Policy
Prepared by	Chris Zafirooulos
Release	12.00
Document Status	Draft
Date Printed	

ITEM	3.6.6
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Review of Internal Review of Council Decisions Policy and Procedure
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.4 To ensure informed and transparent decision-making that is accountable and legally compliant
SUMMARY	This report provides information with respect to the review of the Internal Review of Council Decisions Policy and Procedure and seeks Council endorsement.

RECOMMENDATION

1. The information be received.
2. The Internal Review of Council Decisions Policy and Procedure as set out in Attachment 1 to this report (Resources and Governance 3.6.6, 18/02/2019), be endorsed.

ATTACHMENTS

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

1. Internal Review of Council Decisions Policy and Procedure

1. BACKGROUND

- 1.1 Council's Policy Framework provides for Council Policies/Procedures to be reviewed within 12 months of a general election and two years thereafter.
- 1.2 The Internal Review of Council Decisions Policy and Procedure was last endorsed by Council in December 2017 and is now due for review.

2. CONSULTATION / COMMUNICATION

2.1 Internal

- 2.1.1 Consultation with the Responsible Officer has occurred as to the continuing relevance of the Procedure and any changes that may be required.

2.2 External

- 2.2.1 Nil

3.

4. REPORT

- 4.1 The Internal Review of Council Decisions Policy and Procedure has now been reviewed by the Responsible Officer as to its continuing relevance and only minor editorial changes are required.
- 4.2 Since last reviewed, there have been no amendments to legislation requiring changes to the Internal Review of Council Decisions Policy and Procedure.

5. CONCLUSION / PROPOSAL

- 5.1 The Internal Review of Council Decisions Policy and Procedure as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer: Executive Group
Date: 11/02/2019



Internal Review of Council Decisions Policy and Procedure

Policy Type:	Policy		
Approved By:	Council	Decision No:	0618/2015, 2231/2017
Approval Date:		Last Reapproval Date:	18 December 2017 February 2019
Review Date:	December 2019 February 2021	Internal Reference No.:	
Department:	CEO and Governance	Division:	Governance
Function:	9 - Governance	Responsible Officer:	Manager, Governance

A - PREAMBLE

1. The City of Salisbury is committed to transparency in decision making, and to providing access to a fair and objective procedure for the internal review of decisions.
2. Grievances may arise as a result of dissatisfaction with a decision made by Council, or its employees, on a wide range of issues including policy, procedure, service, fee, etc. All attempts will be made to resolve grievances quickly and efficiently, without the need for a formal request for review.
3. This procedure provides information on formal requests for internal review of decisions of Council, its employees, and other people acting on behalf of Council.
4. Dealing with grievances at the local level is the most effective way of resolving matters quickly. Applicants for review of decisions will be encouraged to participate in the review handling process cooperatively. However, nothing in these procedures negates citizen's rights to seek external review through the State Ombudsman, other legal appeal processes, or the Courts at any time during the internal review process.

B - SCOPE

The Local Government Act

1. The City of Salisbury's Internal Review of Council Decisions Policy and Procedure has been adopted in accordance with Section 270 of the Local Government Act 1999. The Policy and Procedure is one aspect of Council's customer focussed approach to service delivery. It provides a further opportunity to review the way Council provides services to the community, and to identify areas for improvement.
2. The Internal Review of Council Decisions Policy and Procedure applies when reviewing decisions of Council as outlined below and applies to all Council staff who may be involved in receiving and dealing with an application for review of a Council decision.

Relationship with other Council Policies and Procedures

3. Council also has a Customer Compliments, Comments and Complaints Policy Procedure for dealing with complaints and requests for service. As a general rule, Council will promote

that ~~Policy Procedure~~ with its associated procedures in the first instance as it offers the potential for immediate resolution.

4. An Internal Review of a Council Decision is the third tier in Council's complaints handling ~~process procedure~~ and will commence at the point where:
 - A request for the review of a Council decision is received; or
 - A complaint escalates to Tier 3 under Council's Customer Compliments, Comments and Complaints ~~Policy Procedure~~.

Matters outside the scope of the Policy

5. Other provisions in the *Local Government Act 1999* prescribe appeal arrangements in certain circumstances. For example, objections to valuations made by a Council and appeals against orders made pursuant 254 of the Act (Power to make orders).
6. In addition, the Internal Review of Council Decisions Policy and Procedure will not apply when an alternative statutory process for a review or appeal exists in other legislation. Examples of other legislation containing unique statutory processes include:
 - *Development Act 1993* and appeals to the Environment, Resources and Development Court;
 - *Freedom of Information Act 1991*;
 - *Ombudsman Act 1972*;
 - The Act in respect to Section 255 Order to the Environment, Resources and Development Court;
 - Expiation of Offences Act 1996. Although there is no external procedure, a review of a decision relating to the issue of an expiation notice must be undertaken in accordance with this Act by a properly delegated Office;
 - Control Order under the *Dog and Cat Management Act 1995*;
 - A section 92 notice under the *South Australian Public Health Act 2011*.
 - Environmental Protection Act 1993;
 - Food Act 2001;
 - Electoral Act 1985;
 - Expiation of Offences Act 1996;
 - Fair Work Act 1994;
 - Road Traffic Act 1961 & Australian Road Rules;
 - Fire and Emergency Services Act 2005;
 - Matters relating to HACC services, where specific complaint/review mechanisms are identified.
7. While Council prefers to work with its customers to resolve requests for review quickly and effectively, an applicant will always retain the right to seek other forms of resolution, such as contacting the Ombudsman, or taking legal action at any time. Note that as a general rule, the Ombudsman prefers that matters be addressed by Council in the first instance, unless that is not appropriate in the circumstances.
8. Full cooperation with any such authority will be afforded as necessary, in order to resolve the matter as quickly as possible.

C – POLICY PURPOSE/OBJECTIVES

1. The purpose of the Internal Review of Council Decisions Policy and Procedure is to provide open, responsive and accountable government and access to a fair, consistent and structure process for any party dissatisfied with a decision which has been made by Council or its agents with confidence that these matters will be dealt with objectively, fairly and in a timely manner.

2. Section 270 of the Local Government Act 1999 (the Act) requires Council to maintain “policies, practices and procedures” for dealing with request for service and complaints including a procedure about the “review of decisions” of-
 - a. The Council;
 - b. Employees of the Council;
 - c. Other persons acting on behalf of the Council.
3. An internal review of a Council decision enables Council to reconsider all the evidence relied on to make a decision, including new evidence if relevant.

D - DEFINITIONS

Alternative Dispute Resolution includes mediation, conciliation or neutral evaluation as set out in section 271 of the *Local Government Act 1999*.

Applicant is any party lodging the request for review of a decision and could be an individual or a group, including residents, ratepayers, business owners, users of Council facilities and visitors to the area.

Business Day means a day when the Council is normally open for business, i.e. Monday to Friday, excluding public holidays.

CEO is the Chief Executive Officer of City of Salisbury.

Council refers to City of Salisbury

Council Decision is a formal decision of the Elected Council or a section 41 Council Committee, a decision made under delegation by an employee of Council, or a decision by other persons acting on behalf of Council.

Decision-maker refers to the individual or entity responsible for the decision under review.

Employee includes a person employed directly by the Council in a full time, part time or casual capacity (whether a that position is permanent or contractual) and persons providing services to, or on behalf of, the Council even though they may be employed by another party.

Reviewer refers to the individual or entity responsible for resolution of a request for review of a decision.

Vexatious request is any request from an applicant who has consistently, over a period of time, complained about minor matters or the same matter, which have previously been dealt with and no new information has been provided by the applicant and/or is considered by the reviewing officer to be mischievous, without sufficient grounds or serving only to cause annoyance.

E - POLICY STATEMENT

1. Council is committed to open, responsive and accountable government. This includes providing processes by which citizens, who feel they have been adversely affected by a decision of Council, can have their grievances considered.

Equity of Treatment

2. The Internal Review of Council Decisions Policy and Procedure is based on five principles, which are fundamental in the way Council approaches applications for review of Council decisions. They are:
 - Fair treatment: which requires impartiality, confidentiality and transparency at all stages of the process;
 - Accessibility: to be accessible there must be broad public awareness about Council’s policies and procedures and a range of contact options;

- Responsiveness: this will be achieved by providing sufficient resources, well trained staff and ongoing review and improvement of the systems;
- Efficiency: requests and complaints will be resolved as quickly as possible, while ensuring that they are dealt with at a level that reflects their level of complexity;
- Integrated approach to issues under review which have overlapping functional responsibilities.

Applications for Review of a Decision

Making an application

3. An application for a review of a Council decision provides Council with an opportunity to revisit a decision which has aggrieved an interested party, which may include an individual or group, ratepayer, resident or business owner. Depending on the particular circumstances, it may also include a person who is not the direct subject of the decision. (For example, where Council issues a permit for a person to keep more than the maximum number of dogs permitted under a by-law, a neighbour may seek an internal review of the decision.) Council will determine whether a person has a sufficient interest to apply for an internal review of a decision, on a case-by-case basis.
4. An application must be in writing within 6 months of the original decision, preferably using the Application Form found in Attachment 1, including:
 - Name and residential address of the applicant
 - Postal address if different from above
 - Daytime telephone number
 - The reasons for applying for the review (that is, why the applicant believes that the decision is wrong).
5. An application must be addressed to the Chief Executive Officer or the Mayor depending on the following circumstances:
 - If the request for a review of a decision made by Council as the elected body, or a decision made by an employee of Council, or other person acting on behalf of Council, the application should be addressed to the Chief Executive Officer of the City of Salisbury; or
 - If the request is for a review of a decision made by the Chief Executive Officer, the application should be addressed to the Mayor.

By post or hand-delivered:

Internal Review Request
 Chief Executive Officer *or* Mayor
 City of Salisbury
 12 James Street
 SALISBURY SA 5108

or

By email:

Internal Review Request
 Chief Executive Officer *or* Mayor
city@salisbury.sa.gov.au

or

By facsimile:

Internal Review Request
The Chief Executive Officer *or* Mayor
City of Salisbury
(08) 8281 5466

6. Although Council can be expected to have information and material relevant to the matter under review, an application for review may also include new, relevant information or evidence to support the application.
7. The process for applying and participating in a review of a Council decision is to be made as accessible as possible, with assistance provided if considered necessary. Assistance may include interpreter and/or translation services, assisting with writing the application, or ensuring ease of physical access to meeting rooms etc. If a person refuses assistance, that does not negate their right to proceed with the application.
8. The CEO or delegate (or Mayor where appropriate) will assess the application and determine the appropriate action. This may include direct referral of the matter to Council, or to an external person or panel independent of the Council to conduct the review, or to SAPOL if a criminal matter or to the Office of Public Integrity.
9. The CEO may appoint another Council Officer (the “reviewing officer”) such as a member of the Executive Group or senior officer, who was independent of the original decision, or set up a panel for the express purpose (i.e. it does not have permanent status) to conduct the review.
10. Where the CEO or delegate, or Mayor, or reviewing officer has reasonable suspicion that the complaint involves corruption in public administration, serious or systemic misconduct in public administration, or serious or systemic maladministration then the matter **must** be reported to the Office of Public Integrity (OPI) in accordance with the *Independent Commissioner Against Corruption Act 2012*.
11. The role of the reviewing officer is to:
 - i. Explain the procedure to the applicant and explore what options are available to resolve the matter, such as alternative dispute resolution, before a formal application is lodged;
 - ii. Maintain a register of all applications for internal review lodged and the outcome;
 - iii. Acknowledge receipt of the application;
 - iv. Outline the timeframes involved and the action to be taken in the first instance;
 - v. Undertake a preliminary investigation to determine what (if any) actions have already been taken to try to resolve the matter;
 - vi. Keep the applicant informed of progress;
 - vii. Ensure that adequate records of the review process and findings are produced and maintained;
 - viii. Where matters are referred to the Council itself for consideration, provide a report(s) to Council at intervals through the review process and a final report at the conclusion of the process.
12. In undertaking the internal review, the CEO, or Council, or delegated party will review the decision in question to ensure that the original decision making process has regard to the following:

- i. The decision maker had the power to make the decision;
 - ii. All matters relevant to the decision were considered and were not influenced by extraneous factors;
 - iii. The process was free from bias;
 - iv. The decision maker did not exercise a discretion or power in bad faith or for improper purpose;
 - v. The decision was made on facts and evidence;
 - vi. The decision was reasonable;
 - vii. Any relevant legislation, policies or procedures were considered;
 - viii. The decision maker did not exercise a discretionary power at the direction of another person.
13. Where the request for review is referred to Council, the CEO or delegate (or Mayor) will prepare a report to Council which will include all relevant information about the decision being reviewed.

Council Review

14. Matters that will be referred to the Council itself for consideration, or further consideration are:
- i. Requests for review of a decision formally made by Council or for alteration to a Council Policy;
 - ii. Requests for review of a decision made by the CEO which is not supported by Council policy or clear procedural guidelines;
 - iii. Requests for review of a decision made by an officer of the Council which is not supported by Council Policy or clear procedural guidelines.
15. Council may refuse to consider an application for review if:
- i. An application is made by an employee of Council and relates to an issue concerning their employment;
 - ii. It appears that an application is frivolous or vexatious;
 - iii. An applicant does not have sufficient interest in a matter.
16. Pursuant to Section 270(2)(ca) of the *Local Government Act 1999*, where the application for review relates to the impact a declaration of rates or service charges may have on an applicant, the review will be dealt with promptly and if appropriate be addressed through the provision of relief or concessions under the *Local Government Act 1999*.

It is important to note that section 270(9) of the Act provides as follows:

“The right of Council to recover rates is not suspended by an application for the provision of some form of relief or concession with respect to the payment of those rates (but a council may then, if appropriate in view of the outcome of the application, refund the whole or a part of any amount that has been paid).”

17. Where a request for review has been referred to Council, the applicant will be advised of the date that the matter will be presented and will be given the opportunity to provide a written or verbal submission (i.e. deputation) in relation to the report for Council’s consideration.

Process Timescale

18. Applications for a review of a Council decision are to be formally acknowledged within 5 working days or receipt, including advice to the applicant about the anticipated review process and time line.
19. In most cases requests for review will be considered and determined within 28 days. However, in some circumstances the review process may take longer.
20. The applicant will be encouraged to participate cooperatively in the review process.
21. The applicant will be kept informed about the progress of the review either by email, letter or telephone.
22. Opportunity to provide additional information:
 - i. After initially assessing an application for an internal review of council decision, the reviewing officer may (if deemed appropriate) invite the applicant to provide further information to assist in understanding the applicant's concerns, the issue to be investigated and the outcome or remedy sought.
 - ii. Applicants are able to supply information relevant to the initial application at any time during the review process. However, if the additional information is determined to be of a different nature the applicant will be advised of the need to submit a separate application for an internal review of a council decision.
23. The applicant will be informed in writing of the outcome of the review within 5 business days of the determination being made.
24. While there is no statutory requirement to give reasons for a decision, Council may provide reasons for the decision of the reviewing officer where practicable. Council will aim to give reasons to explain the outcome where:
 - i. A decision is not in accordance with the adopted policy;
 - ii. A decision is likely to detrimentally affect rights or interests of individuals (or organisations) in a material way;
 - iii. Conditions are attached to any approval, consent, permit, licence or other authorisation.
25. There is no application fee for a formal internal review under section 270(1) of the *Local Government Act 1999*.

Procedural Fairness

26. Council will observe the principles of procedural fairness (also called "natural justice") when exercising its statutory powers which could affect the rights and interests of individuals.
27. "Procedural fairness" involves:
 - i. giving an individual:
 - a. a right to put their case forward; and
 - b. an opportunity to provide all documentary evidence, rather than an oral hearing.
 - ii. ensuring that the reviewer is not biased and does not have a personal interest in the outcome, and
 - iii. acting only on proper evidence.

Remedies

28. Where the review of a decision upholds the applicant's grievance and appropriate remedy or response will be determined which is consistent and fair for both Council and the applicant. The remedy will be proportionate and appropriate to the matter. The range of outcomes includes:
- i. An explanation;
 - ii. Mediation, conciliation, or neutral evaluation;
 - iii. A change of policy, procedure or practice;
 - iv. A correction of misleading records;
 - v. Disciplinary action;
 - vi. Referral of a matter to an external agency for further investigation or prosecution.

Confidentiality

29. The details of any request for internal review will be kept confidential as far as practicable. When no longer practicable, the applicant will be advised.
30. The applicant will be encouraged to observe confidentiality as this is likely to achieve the fairest result for all concerned.
31. The applicant's personal information will be used by the reviewing officer in relation to investigating and reviewing the application.
32. Only relevant parties will be involved in the internal review process.
33. Where a request for review is referred to the Elected Council for determination, the Council may consider the matter in confidence only where it is lawful and appropriate to do so, subject to there being grounds under section 90(3) of the *Local Government Act 1999*.
34. If the application is referred to the Ombudsman, Council will share any relevant information relating to the application with the Ombudsman's office in accordance with the *Ombudsman Act 1972*.
35. Information contained within the application may be accessible under the *Freedom of Information Act 1991*.

Record keeping

36. The reviewing officer must keep written records of interviews and the process undertaken.
37. Records must be factual and objective.
38. Records must be securely stored and registered in Council's records management system and in compliance with the *State Records Act 1997*.
39. Only those persons with a genuine need to view the material will be allowed access to the records.

Annual Reporting

40. In accordance with section 270(8) of the Local Government Act 1999, the Council will, on an annual basis, provide information in its Annual Report that relates to:
- i. The number of applications for review made under this section, and
 - ii. The kinds of matters to which the applications relate; and
 - iii. The outcome of the applications made under this section; and
 - iv. Such other matters as may be prescribed by the Regulations Under the Act.

Dispute Resolution

41. At its absolute discretion, and in accordance with section 271 of the Local Government Act 1999, the Council may use alternate dispute resolution methods such as mediation, conciliation or neutral evaluation to resolve an application in circumstances where the CEO or his/her delegate deems such a course of action appropriate and the applicant is amenable to that process.
42. Costs and expenses associated with mediation and/or conciliation and neutral evaluation will be shared equally between the Council and the other party in accordance with section 271(7) of the *Local Government Act 1999*.

F - LEGISLATION

1. Local Government Act 1999
2. Freedom of Information Act 1991
3. Independent Commissioner Against Corruption 2012
4. Ombudsman Act 1972
5. State Records Act 1997

G - ASSOCIATED POLICIES/PROCEDURES

1. City of Salisbury Customer Compliments, Comments and Complaints ~~Policy~~Procedure

Document Control

Document ID	Internal Review of Council Decisions Policy and Procedure
Prepared by	Joy Rowett
Release	23.00
Document Status	Draft
Date Printed	



Application for Internal Review of a Council Decision

Details of Applicant:

Name: Title: (Mr/s etc)

Address:.....

Telephone Number(s) Date of Application.....

Application Received

Application Referred to:.....

Details of Application:

I request a review of the following decision made by Council:

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My reason for requesting a review of the decision is because:

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Applicant's Signature: **Date:**/...../.....

Please complete this form in conjunction with the Internal Review of Council Decisions Procedure.

ITEM	3.6.7
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Review of Representation of the City of Salisbury by Elected Members Policy
AUTHOR	Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.4 To ensure informed and transparent decision-making that is accountable and legally compliant
SUMMARY	This report presents the Representation of the City of Salisbury by Elected Members Policy to Council for consideration and endorsement. The Policy has been reviewed by the Policy Owner and only minor editorial changes are required.

RECOMMENDATION

1. The Information be received.
2. The Representation of the City of Salisbury by Elected Members Policy as set out in Attachment 1 to this report (Resources and Governance 3.6.7, 18/02/2019), be endorsed.

ATTACHMENTS

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

1. Representation of the City of Salisbury by Elected Members Policy

1. BACKGROUND

- 1.1 Council's Policy Framework provides for Council Policies to be reviewed within 12 months of a general election and two years thereafter.
- 1.2 The Representation of the City of Salisbury by Elected Members Policy, last reviewed in February 2018, is now due for review.

2. CONSULTATION / COMMUNICATION

2.1 Internal

- 2.1.1 Consultation with the Manager, Governance and the Executive Office has occurred as to the continuing relevance of the Policy and any changes that may be required.
- 2.1.2 Consultation with Elected Members, via email, has occurred.

3. REPORT

- 3.1 The Enforcement Policy has been reviewed by the Policy Owner. No changes of substance are required in the content of the Policy to ensure its continuing relevance with the exception of minor editing changes.

4. CONCLUSION / PROPOSAL

- 4.1 The Representation of the City of Salisbury by Elected Members as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer: Executive Group
Date: 11/02/2019



Representation of the City of Salisbury by Elected Members Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	2012/1390, 2016/0852, 2018/2307, xxxx/2019
Approval Date:	17 December 2012	Last Reapproval Date:	26 February 2018 <u>25 February 2019</u>
Review Date:	February 2020 <u>2021</u>	Internal Reference No.:	
Department:	CEO and Governance	Division:	Governance
Function:	9 - Governance	Responsible Officer:	Manager, Governance

A - PREAMBLE

1. The City of Salisbury seeks to ensure that it is appropriately represented at events and functions hosted by schools, community groups and businesses throughout the City.

B - SCOPE

1. This Policy applies to all City of Salisbury Elected Members, including the Mayor.

C – POLICY PURPOSE/OBJECTIVES

1. This Policy provides guidance to ensure appropriate representation to the City of Salisbury at events/functions to which the Mayor has been invited and is unable to attend.

D - DEFINITIONS

1. Elected Members mean the Mayor and Councillors of the City of Salisbury.

E - POLICY STATEMENT

1. Where an invitation is received by the Mayor and the Mayor is not able to attend the event or function for which the invitation has been extended, the Deputy Mayor is the first call for attendance in the place of the Mayor, followed by both the relevant Ward Councillors.
2. Where an invitation has been accepted by the Mayor and the Mayor is subsequently no longer able to attend the event, the Deputy Mayor is the first call for attendance in the place of the Mayor, followed by both the relevant Ward Councillors.
3. In circumstances where the event occurs outside of the City of Salisbury, or there is a limited time available to confirm an alternative attendee, every effort will be made to contact members in accordance with the order of precedence. Where it is not possible to

confirm an attendee from the order of precedence, guidance will be sought from the Mayor or Deputy Mayor as to who should be asked to attend the event/function.

4. Where a Councillor accepts an invitation as an alternative attendee and then is subsequently not able to attend the event or function for which the invitation has been extended, the Councillor is to contact the Executive Office to advise that they are unable to attend the event/function and to request an alternative attendee be approached to attend the event/function.
5. Details of invitations to events received by the Mayor, including confirmed attendees, will be communicated to all Elected Members via the Elected Member Portal, providing the opportunity for an Elected Member to nominate to attend an event where an attendee has not been confirmed from the order of precedence set out above.

F - LEGISLATION

1. Nil

G - REFERENCES

1. Nil

H - ASSOCIATED PROCEDURES

1. Nil

Document Control

Document ID	Representation of the City of Salisbury by Elected Members
Prepared by	Joy Rowett
Release	34,00
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Date Printed	

ITEM	3.6.8
	RESOURCES AND GOVERNANCE COMMITTEE
DATE	18 February 2019
HEADING	Review of Transfer of Cemetery Licences Policy
AUTHORS	Brian Gillies, Team Leader Sport, Recreation and Cemeteries, Community Development Joy Rowett, Governance Coordinator, CEO and Governance
CITY PLAN LINKS	4.4 To ensure informed and transparent decision-making that is accountable and legally compliant
SUMMARY	This report presents the Transfer of Cemetery Licences Policy to Council for consideration and endorsement. The Policy has been reviewed by the Policy Owner and only minor editorial changes are required.

RECOMMENDATION

1. The Information be received.
2. The Transfer of Cemetery Licences Policy as set out in Attachment 1 to this report (Resources and Governance Committee Item No. 18/02/2019) be endorsed.

ATTACHMENTS

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

1. The Transfer of Cemetery Licences 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 The Transfer of Cemetery Licences Policy, last reviewed in March 2018, is now due for review.

2. CONSULTATION / COMMUNICATION

- 2.1 Internal
 - 2.1.1 Contracts and Project Officer
- 2.2 External
 - 2.2.1 Nil

3. REPORT

3.1 The Transfer of Cemetery Licences Policy has been reviewed by the Policy Owner. Apart from minor editorial changes, addition of the State Government legislation and changes to the review dates of Regulations and Specifications, no changes of substance are required in the content of the Policy to ensure its continuing relevance.

4. CONCLUSION / PROPOSAL

4.1 The Transfer of Cemetery Licences as contained within Attachment 1 is recommended to Council for endorsement.

CO-ORDINATION

Officer:	EXECUTIVE GROUP	GMCD
Date:	11/02/2019	07/02/2019



The Transfer of Cemetery Licences Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	1397, 2009/1633, 2011/327, 2013/1611, 2016/970, 2392/2018, xxxx/2019
Approval Date:	29 March 2005	Most Recent Approval:	26 March 2018 25 February 2019
Review Date:	March 2019 February 2021	Internal Reference No.:	
Department:	Community Development	Division:	Business Supports
Function:	17 - Social Cultural and Community Services	Responsible Officer:	Manager, Business Support

A - PREAMBLE

1. Cemetery licences have a commercial value. When a licence is transferred to another party, all of the rights that are applicable to that licence are also transferred. Current State Government legislation does not effectively address this matter, therefore the City of Salisbury has developed this Policy to set out its management of the transfer of Cemetery Licences.

B - SCOPE

1. This policy only applies to cemetery licences issued by the City of Salisbury for rights to Salisbury Memorial Park.

C – POLICY PURPOSE/OBJECTIVES

1. To clearly define a recognised lineage for the purpose of transferring a licence from one person to another person.
2. To adopt “best practice” as prescribed by the Cemeteries Association of South Australia, when transferring a cemetery licence.
3. To incorporate within the Regulations of Salisbury Memorial Park, section 8, ‘The conditions and transfer of licence.’

D - DEFINITIONS

1. **Entombment** – the disposition of the remains of a deceased person in a mausoleum or crypt, constructed for such purpose by Salisbury Memorial Park.
2. **Interment** – the disposition of the remains of a deceased person by burial in the earth.
3. **Inurnment** – the disposition of the cremated remains of a deceased person either by burial in the earth or by placement within a cremation space.
4. **Licencee** – any person in whose name a space is currently recorded in the records of Salisbury Memorial Park as the owner of the exclusive right to interment, inurnment or entombment.
5. **Memorial Plaque or Monument** – the type of plaque or memorial stone allowed by Salisbury Memorial Park to be placed on a space.

6. **Park**- the cemetery to which the Regulations relate.
7. **Space** – the space in which interments, inurnments or entombments may be made.

E - POLICY STATEMENT

1. The right and responsibility of a licence transfer resides with the licensee.
2. The rights granted to the licensee may be transferred upon the death or legal incapacity of the licensee to any one of the following people in descending order of entitlement:
 - a. The sole executor or administrator of the licensee
 - b. A joint executor or administrator (with the permission of all others) of the licensee
 - c. The spouse of the licensee (including a putative or common law spouse)
 - d. The eldest living and legally capable child of the licensee
 - e. The eldest living and legally capable grandchild of the licensee
 - f. The eldest living and legally capable sibling of the licensee
 - g. The eldest living and legally capable blood relative of the licensee
3. In the context of this Policy the City of Salisbury defines legally capable to be 18 years of age and over.
4. The substituted right may be devolved to one or more persons in succession in the event of the subsequent death or legal incapacity of such person.
5. The City of Salisbury may determine the criteria necessary to demonstrate the relationship and entitlement of a person claiming a substituted right and the City of Salisbury retains unfettered discretion to determine which person will be entitled to exercise the substituted rights in the event of a dispute between one or more persons.
6. A transfer can be affected at any time while the licence is current.
7. To affect a transfer, it is necessary to complete a Transfer of Right of Burial Declaration and provide the required documentation.
8. Licensees are responsible for advising the City of Salisbury of change of address.
9. Only the licensee has the right to relinquish the licence.
10. The licensee may relinquish the licence for a grave and/or cremation garden memorial anytime except where a grave contains a burial. Removal of buried remains requires the consent in writing of the Attorney-General.
11. The monument or plaque may be reclaimed by the licensee upon relinquishment, or will be disposed of at the City of Salisbury's discretion.
12. Any fee paid on the licence will not be refunded.
13. The City of Salisbury may extend, renew, relinquish or transfer the licence upon application.
14. The right to extend licences is perpetual and may be exercised in multiples of five (5) years. Fees are based on charges prevailing at the time of extensions.
15. Landscaping of grave and cremation memorial sites is not permitted (including placement of jars, bottles and potted plants) in accordance with Salisbury Memorial Park's Regulations.
16. Salisbury Memorial Park accepts no responsibility for the quality of metal or granite plaques supplied by the manufacturer.

F - LEGISLATION

1. The *Local Government Act 1999*

- [2. The Local Government \(Cemetery\) Regulations 2010](#)
- [3. The Burial and Cremation Act 2013 – South Australia](#)
- [2.4. The Burial and Cremation Regulations 2014 – South Australia](#)

G - REFERENCES

- 1. Salisbury Memorial Park Regulations (revised [7th of February 2019](#) ~~22 January 2010~~)
- 2. Salisbury Memorial Park Specifications (revised [7th of February 2019](#) ~~23 June 2010~~)
- 3. Transfer of Licence Declaration.

H - ASSOCIATED PROCEDURES

Document Control

Document ID	Transfer of Cemetery Licences Policy
Prepared by	Brian Gillies
Release	57
Document Status	Draft
Issue Date	