



AGENDA

FOR GOVERNANCE AND COMPLIANCE COMMITTEE MEETING TO BE HELD ON

**17 APRIL 2023 AT CONCLUSION OF THE FINANCE AND CORPORATE
SERVICES COMMITTEE**

**IN WITTBER & DR RUBY DAVY ROOMS, SALISBURY COMMUNITY HUB,
34 CHURCH STREET, SALISBURY**

MEMBERS

Cr P Jensen (Chairman)
Mayor G Aldridge (ex officio)
Cr L Brug
Cr S Burner
Cr J Chewparsad
Cr K Grenfell
Cr D Hood (Deputy Chairman)
Cr S McKell

REQUIRED STAFF

Chief Executive Officer, Mr J Harry
General Manager Business Excellence, Mr C Mansueto
General Manager City Infrastructure, Mr J Devine
General Manager Community Development, Mrs A Pokoney Cramey
General Manager City Development, Ms M English
Manager Governance, Mr R Deco

APOLOGIES

LEAVE OF ABSENCE

PRESENTATION OF MINUTES

Presentation of the Minutes of the Governance and Compliance Committee Meeting held on 20 March 2023.

REPORTS

Administration

3.0.1	Future Reports for the Governance and Compliance Committee	7
-------	--	---

For Decision

3.1.1	Salisbury Water Flow Restriction Policy for Residential Customers Review	9
3.1.2	Dog Registration Fees 2023/2024	19
3.1.3	Review of Food Act 2001 Inspection Fees Policy	35
3.1.4	Review of Enforcement Policy.....	55
3.1.5	Review of Private Parking Areas Act 1986 - Private Parking Agreements Policy.....	77
3.1.6	Review Local Government Act 1999 Order Making Policy	89
3.1.7	Footpath Trading Policy Review.....	115
3.1.8	Review of Prudential Management Policy	167
3.1.9	Review of Council Decision Construction of Carpark at Tree Top Court.....	173

QUESTIONS ON NOTICE

There are no Questions on Notice.

MOTIONS ON NOTICE

There are no Motions on Notice.

OTHER BUSINESS

(Questions Without Notice, Motions Without Notice, CEO Update)

CLOSE



**MINUTES OF GOVERNANCE AND COMPLIANCE COMMITTEE MEETING HELD IN
WITTBER & DR RUBY DAVY ROOMS, SALISBURY COMMUNITY HUB,
34 CHURCH STREET, SALISBURY ON**

20 MARCH 2023

MEMBERS PRESENT

Cr P Jensen (Chairman)
Cr L Brug
Cr J Chewparsad
Cr K Grenfell
Cr D Hood (Deputy Chairman)
Cr S McKell

STAFF

General Manager Business Excellence, Mr C Mansueto
General Manager City Development, Ms M English
Assessment Manager, City Development, Mr C Zafiropoulos
Team Leader Council Governance, Ms J O'Keefe-Craig

The meeting commenced at 8:08pm.

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

APOLOGIES

An apology was received from Mayor G Aldridge

ABSENT: Cr S Burner

LEAVE OF ABSENCE

Nil.

PRESENTATION OF MINUTES

Moved Cr K Grenfell
Seconded Cr D Hood

The Minutes of the Governance and Compliance Committee Meeting held on 20 February 2023, be taken as read and confirmed.

CARRIED

REPORTS

Administration

3.0.1 Future Reports for the Governance and Compliance Committee

Moved Cr L Brug
Seconded Cr S McKell

That Council:

1. Notes the report.

CARRIED

For Decision

Pursuant to section 74 of the Local Government Act 1999, Cr L Brug declared a general conflict of interest on the basis of her husband, Cr B Brug, being a member of the Council Assessment Panel. Cr L Brug stated that she will deal with the conflict by leaving the meeting.

Cr L Brug left the meeting at 8:09 pm.

3.1.1 Council Assessment Panel - Appointment of Independent Members

Moved Cr D Hood
Seconded Cr K Grenfell

That Council:

1. Adopts the *Council Assessment Panel Terms of Reference* as contained in Attachment 1 to this report (Governance and Compliance Committee 20 February 2023, Item 3.1.1) to commence the expression of interest process for the appointment of Independent Members for the next term of the Council Assessment Panel.

CARRIED
UNANIMOUSLY

Cr L Brug returned to the meeting at 8:11 pm.

QUESTIONS ON NOTICE

There were no Questions on Notice.

MOTIONS ON NOTICE

There were no Motions on Notice.

OTHER BUSINESS

(Questions Without Notice, Motions Without Notice, CEO Update)

Nil.

The meeting closed at 8:11pm.

CHAIRMAN.....

DATE.....

This page intentionally left blank

ITEM	3.0.1
	GOVERNANCE AND COMPLIANCE COMMITTEE
DATE	17 April 2023
HEADING	Future Reports for the Governance and Compliance Committee
AUTHOR	PA to General Manager Business Excellence, Business Excellence
CITY PLAN LINKS	4.2 We deliver quality outcomes that meet the needs of our community
SUMMARY	This item details reports to be presented to the Governance and Compliance 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.

RECOMMENDATIONThat Council:

1. Notes the report.

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 Governance and Compliance Committee as a result of a Council resolution:

Meeting Item	Heading and Resolution	Officer
27/06/2022 3.2.1	Community Compliance Resources 2. Approves a report on the Community Compliance resources and outcomes be presented to Council by 30 November 2023 to enable consideration of required resource demands without the impacts of COVID-19 on both staff and the community. Due: November 2023	John Darzanos
22/08/2022 MON1	Motion on Notice: Elected Member Communication Process and Protocols That Administration bring back to the Governance and Compliance Committee a report that details the current communication process and protocols to ensure Elected Members are aware of: a. significant Council infrastructure projects and initiatives. b. development our for public consultation within the City of Salisbury. c. Council public consultation initiatives. d. community events within the City of Salisbury. e. City of Salisbury media notifications Due: June 2023	Helen Atkins
31/01/2023 GB2	Local Government Association Ordinary General Meeting April 2023 3. Requests for the Manager Governance to provide a report to the Governance and Compliance Committee on the motions put forward Due: May 2023 following OGM meeting in April 2023.	Rudi Deco
31/01/2023 3.1.2	Caretaker Policy 1. Defer this item to allow for the creation of a working party which includes the Chair of Governance and Compliance Committee, the Mayor, Cr Grenfell and appropriate administration staff to give further consideration to this policy. Due: June 2023	Joy O'Keefe-Craig

4. CONCLUSION / PROPOSAL

4.1 Future reports for the Governance and Compliance Committee have been reviewed and are presented for noting.

ITEM	3.1.1
	GOVERNANCE AND COMPLIANCE COMMITTEE
DATE	17 April 2023
HEADING	Salisbury Water Flow Restriction Policy for Residential Customers Review
AUTHOR	Salisbury Water Administration Coordinator, Business Excellence
CITY PLAN LINKS	4.2 We deliver quality outcomes that meet the needs of our community
SUMMARY	<p>The Salisbury Water Flow Restriction Policy for Residential Customers provides clear direction to staff, management and Council in relation to restricting water flow as the final stage in the recovery of outstanding Salisbury Water residential water charges, strictly in accordance with Council's Water Retail Licence.</p> <p>This policy has been reviewed and proposed changes are minor in nature.</p>

RECOMMENDATION

That Council:

1. Adopts the Salisbury Water Flow Restriction Policy for Residential Customers as set out in Attachment 1 to this report (Governance and Compliance 17 April 2023, Item No. 3.1.1) with a review date of March 2026.

ATTACHMENTS

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

1. Salisbury Water Flow Restriction Policy for Residential Customers

1. BACKGROUND

- 1.1 Council has been issued a Water Retail Licence by the Essential Services Commission of South Australia (ESCOSA) which allows Council to provide a recycled water retail service to its customers.
- 1.2 In accordance with this Water Retail Licence and ESCOSA's Water Retail Code – Minor & Intermediate Retailers (WRC-MIR/02), retailers are able to install flow limiting devices on a customer's water supply to assist with the recovery of outstanding water charges.
- 1.3 The flow limiting device restricts the flow of water to a nominal 0.4 litres per minute thus allowing residents to still meet basic hygiene for toilet flushing but limits the 'usability' of the supply for other purposes.
- 1.4 The Salisbury Water Flow Restriction Policy for Residential Customers was last reviewed in March 2021 and is now due for review.

2. CONSULTATION / COMMUNICATION

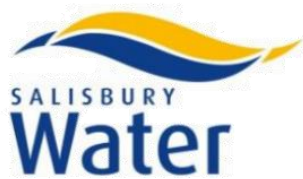
- 2.1 Internal – Manager Salisbury Water
- 2.2 External - ESCOSA

3. REPORT

- 3.1 The Salisbury Water Flow Restriction Policy for Residential Customers has been reviewed by the Salisbury Water Business Unit – the policy owner.
- 3.2 No changes, with the exception of minor editorial changes, are required in the context of the Policy to ensure its continuing relevance.
- 3.3 No changes have been proposed or directed by the Essential Services Commission of South Australia (ESCOSA) or the Minister.

4. CONCLUSION / PROPOSAL

- 4.1 Council is committed to assisting residential customers who are experiencing temporary and/or ongoing financial hardship to manage their payments and where possible avoid restricting their recycled water service. Council recognises and understands that the cost of living pressures can place a strain on household budgets and at times of ill-health or unexpected events that can impact on a person's capacity to earn, reducing their ability to pay their accounts on time.
- 4.2 This policy must only be applied when all avenues to recover outstanding charges have been exhausted.
- 4.3 The policy directs staff in the implementation of the flow restrictions procedure strictly in accordance with criteria set out in ESCOSA's Water Retail Code – Minor & Intermediate Retailers.
- 4.4 The Salisbury Water Flow Restriction Policy for Residential Customers as contained within Attachment 1 is recommended to Council for adoption.



City of Salisbury Values: Respectful, Accountable, Collaborative, Helpful

Salisbury Water Flow Restriction Policy for Residential Customers

Adopted by:	Council
Responsible Division:	Salisbury Water - Business Excellence
First Issued/Adopted:	28 July 2014
Last Reviewed:	March 2021 <u>March 2023</u>
Next Review Date:	March 2023 <u>March 2026</u>

1. Purpose

- 1.1 This policy provides clear direction to staff, management and Council in relation to the recovery of outstanding Salisbury Water residential water charges through the restriction of water supply in accordance with the Council's Water Industry Retail Licence.
- 1.2 A flow restrictor is a device that can limit water flow to a property, typically an orifice plate inserted at the supply meter. The Council proposes to use restrictors to limit the flow of water to a nominal 0.4 litres per minute thus allowing residents to still meet basic hygiene for toilet flushing but limiting the 'usability' of the supply for other purposes.

2. Scope

- 2.1 This Policy applies to residential customers who receive Salisbury Water from the City of Salisbury's Water Business Unit who meet the criteria for non-payment of Salisbury Water accounts as per Clause 5.1.

- 2.2 This Policy provides clear direction to those Council officers who are responsible for managing the recovery of outstanding Salisbury Water residential water charges and the criteria to be applied for the installation of a water flow restriction device.

3. Legislative Requirements and Corporate Policy Context

- 3.1 City of Salisbury Water Industry Retail License (Intermediate Retailer);
- 3.2 Water Retail Code – Minor & Intermediate Retailers (WRC-MIR/02)
- 3.3 *Water Industry Act 2012 (SA)*;
- 3.4 *Essential Services Commission Act 2002 (SA)*;
- 3.5 *Local Government Act 1999*.

4. Interpretation/Definitions

- 4.1 **Salisbury Water Business Unit** is a business unit of the City of Salisbury ('the Council').
- 4.2 **Salisbury Water** is the term used for Council's fit-for-purpose recycled water supply.
- 4.3 **Council Staff** referred to in this policy are authorised water industry officers appointed under the *Water Industry Act 2012*.

5. Policy Statements

5.1 Criteria for Flow Restriction

- 5.1.1 A residential customer may have a water flow restriction device installed when their water account has a minimum outstanding balance of \$200.00 or has been in arrears for 4 consecutive quarters.
- 5.1.2 A water flow restriction device will only be installed in accordance with the procedures outlined in the following Clauses 5.2 to 5.8.

5.2 Councils Ability to Restrict a Residential Water Service

- 5.2.1 The Council may arrange for the restriction of the supply of Salisbury Water to a residential customer where the residential customer has:
 - a) not paid a bill or bills by the due date;
 - b) not agreed to another payment option to pay a bill;
 - c) not adhered to the residential customers obligations to make payments in accordance with the payment options in relation to the payment of bills in Clause 3.2; and
 - d) not complied with the terms of Council's Hardship Policy for Residential Salisbury Water Customers ~~Hardship Policy~~, resulting in the residential customer being removed from that program.

5.3 Councils Obligations Prior to Restricting a Residential Water Service

- 5.3.1 Before restricting supply of Salisbury Water to a residential customer for failure to pay a bill or bills, the Council will:

- a) Use its best endeavours to contact the residential customer personally either by:
 - Telephone
 - Mail
 - Electronic mail
 - Visiting the property, or
 - Any other method approved or required by the Commission (ESCOSA) from time to time.
- b) Give the residential customer information about the terms of its Hardship Policy for Residential Salisbury Water Customers ~~Hardship Policy~~ and assess the residential customer's eligibility for participation in the hardship program;
- c) Give the customer a reminder notice in writing;
- d) After the expiry of the period referred to in the reminder notice, give the residential customer a written "Notice of Intention to Restrict" with 7 business days' notice of its intention to install the restriction; and
- e) Advise the residential customer of the existence and operation of Councils external dispute resolution body or industry ombudsman (whichever is applicable at the time).

5.4 Prohibition on Residential Water Flow Restriction

5.4.1 In the following instances, the Council must not arrange for the supply of a residential customers water service to be restricted:

- a) where supply to the residential customer is in accordance with the terms of the Hardship Policy for Residential Salisbury Water Customers ~~Hardship Policy~~ and the residential customer is adhering to those requirements,
- b) for non-payment of a bill where the amount is less than an amount approved by the Commission and the residential customer has agreed with Council to repay that amount,
- c) where the residential customer or a person residing at the residential customers supply address has advised the Council that the person ordinarily residing at the supply address is dependent on life support equipment,
- d) where a residential customer has made a complaint, directly related to the reason for the proposed flow restriction, to the industry ombudsman or another external dispute resolution body and the complaint remains unresolved,
- e) Where the residential customer is the landlord, and the supply address is occupied by a tenant and the tenant has:
 - Provided acceptable evidence (such as an executed tenancy agreement, proof of rental receipts or other bills for goods and services) demonstrating the tenant's residence at the supply address; and

- Satisfied its payment obligations (if any) in respect of the retail service in accordance with the terms of the relevant tenancy agreement.

5.5 Flow Restriction Procedures

5.5.1 The Council will recover outstanding residential water usage charges through the restriction of water supply by following the procedure below:

a) Initial invoice

- Issued by the Salisbury Water Business Unit at end of billing quarter.
- Allow the customer 30 days to make payment/arrangements.

b) Final Notice

- Issued by a Financial Officer 7-10 days after the due date.
- The final notice is to include a copy of the initial notice, including:
 - advisement that failure to pay will result in restriction of flow;
 - costs associated with the installation of a flow restrictor will be charged to the customer's account.

c) Notice of Intention to Restrict Flow (minimum outstanding balance \$200 or 4 quarters in arrears)

- Subject to satisfying Council's obligations under Clause 5.1, the Salisbury Water Business Unit will attempt to make direct 'face to face' contact, issue a written reminder notice (as per section 5.5.1(b)) followed by a "Notice of Intention to Restrict", nominally 7 days from the date of the Final Notice issued by the Financial Officer.
- The Notice of Intention to Restrict must contain the following information:
 - Date of issue;
 - The matter giving the rise to the potential restriction;
 - Where the notice has been issued for not paying a bill, state the date on which the restriction warning notice period ends and state that the payment of the bill must be made during the restriction warning notice period;
 - Informs the customer of applicable restoration procedures and charge that will be imposed;
 - Includes details of Councils telephone number and website for complaints, and disputes; and
 - Includes details of the existence and operation of Councils external dispute resolution body or the industry ombudsman scheme (whichever is applicable).
- The notice is to be delivered via Registered Mail or Hand Delivered. Copies to be provided to the Salisbury Water Business Unit Technical Officer.

- Flow restriction will only be avoided if the balance of the account is paid in full or arrangements to pay have been agreed to by Council or other criteria as detailed in Clause 5.4 are met.
- All correspondence shall be registered in Council's corporate document management and water billing systems~~Pathway~~ ~~/ Dataworks~~.

d) **Flow Restriction Installation**

- Restrictor to be installed on the existing purple recycled water meter.
- The restrictor will not be installed:
 - after 3.00pm on a business day
 - on a Friday, on a weekend, on a public holiday or on the day before a public holiday, except in the case of a planned interruption; or
 - if it is a day of total fire ban declared by a relevant authority in the area in which the supply address is located.
- Two Council staff members are to be present at each installation
- Only 0.4 litres per minute restrictors are to be utilised.
- An "installation of flow restrictor fee" will be charged to the customer's account in accordance with Council's Fees and Charges.

e) **Flow Restrictor Removal**

- The removal of the flow restrictor will take place after the balance of the account is paid in full or an agreed payment scheme has been negotiated with Council or other Clause 5.4 criteria come into effect.
- The removal of the flow restrictor will take place as soon as possible but within 2 working days from clearance of funds.
- Restrictors will be removed during normal working hours, unless otherwise instructed by the Manager Salisbury Water.

f) **Legal Action**

- Legal action will only be taken in accordance with the Council's debt recovery procedures.

5.6 Full Disconnection from Salisbury Water Supply

5.6.1 In accordance with the *Water Retail Code – Minor and Intermediate Retailers*, the Council must not arrange for the full disconnection of supply of a water service to a customer's supply address for non-payment of bills.

5.6.2 Permitted disconnections are only permitted if:

- a customer has requested the disconnection;
 - a customer has used the retail service illegally; or
 - a customer has refused entry to Council staff for the purposes of meter reading or other purposes consistent with carrying out duties in accordance with the applicable regulatory instruments.
- d) **Clause 5.4 Prohibition clauses still apply in all cases.**

5.6.3 The disconnection fee will be in accordance with the Councils Fees & Charges.

5.7 Recovery of Outstanding Balances after Installation of a Flow Restrictor or Disconnection

5.7.1 Following installation of a flow restrictor or disconnection of supply, the Council may without further notice commence proceedings for recovery of all amounts due. Recovery proceedings available to Council include:

- a) Proceedings in any court of competent jurisdiction
- b) Such other legal processes as deemed appropriate by Council.

5.8 Reconnection to Salisbury Water Supply

5.8.1 Should a customer wish to be reconnected to Salisbury's Water Supply (eg. change of ownership), then reconnection will be at the owner's cost.

6. Related Policies and Procedures

6.1 [Water Retail Code – Minor & Intermediate Retailers \(WRC-MIR/02\), Essential Service Commission of South Australia](#)

6.2 [Hardship Policy for Residential Salisbury Water Customers](#)

7. Approval and History

Version	Approval Date	Approval By	Change
5	March 2019	Council	Reviewed for currency, minor amendment to reflect change from minor to intermediate retailer
<u>6</u>	<u>April 2023</u>	<u>Council</u>	<u>Reviewed for currency, minor amendments to reflect references to other policies.</u>

8. Availability

8.1 The Policy is available to be downloaded, free of charge, from Council's website www.salisbury.sa.gov.au

8.2 The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

City of Salisbury Community Hub
34 Church Street, Salisbury SA 5108
Telephone: 8406 8222
Email: city@salisbury.sa.gov.au

9. Review

This Policy will be reviewed:

- Within 12 months of a Council election and thereafter as necessary; or
- Earlier in the event of changes to legislation or related Policies and Procedures; or
- If deemed necessary by Council.

Further Information

For further information on this Policy please contact:

Responsible Officer: Manager, Salisbury Water
Address: 34 Church Street, Salisbury SA 5108
Telephone: 8406 8222
Email: city@salisbury.sa.gov.au

This page intentionally left blank

ITEM	3.1.2
	GOVERNANCE AND COMPLIANCE COMMITTEE
DATE	17 April 2023
HEADING	Dog Registration Fees 2023/2024
AUTHOR	Manager Environmental Health & Community Compliance, City Development
CITY PLAN LINKS	4.2 We deliver quality outcomes that meet the needs of our community 4.4 We plan effectively to address community needs and identify new opportunities
SUMMARY	<p>This report seeks Council approval for the proposed 2023/2024 dog registration, rebates and exemptions and other fees. Fees must be approved prior to 31 May 2023 to facilitate the update and generation of new registrations for the 2023/24 period in the state-wide dog registration database, Dog and Cats Online (DACO).</p> <p>Under the provisions of the <i>Dog and Cat Management Act 1995</i>, Council can establish dog registration fees and rebates without any fee cap or approval required from the relevant Minister. The only requirement is a level of consistency in the category of dog registration types and concessions available to help facilitate the required categories on DACO.</p>

RECOMMENDATION

That Council:

1. Approves the 2023/2024 registration categories, fees, eligible rebates and exemptions and late fees as shown in the Proposed Dog and Cat Management Act 1995 Fee Schedule 2023/2024 forming Attachment 3 to the Governance and Compliance Committee agenda, 17 April 2023, Item No. 3.1.2.

ATTACHMENTS

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

1. Attachment 1 - Potential Dog Registration Fee by Category (\$80, \$90, \$100)
2. Attachment 2 - Revenue and Expenditure Estimates
3. Attachment 3 - Proposed Dog and Cat Management Act 1995 Fee Schedule 2023/2024

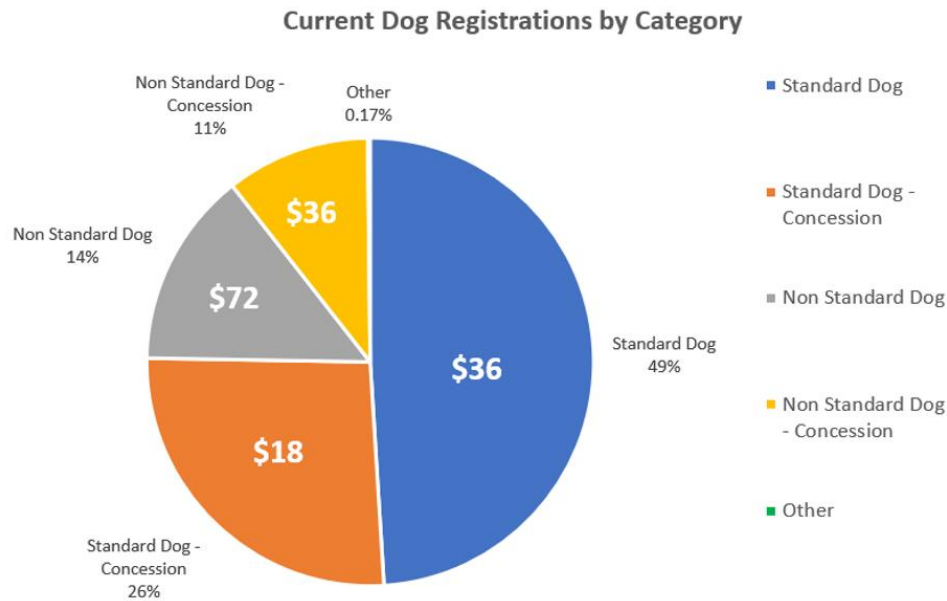
1. BACKGROUND

- 1.1 Under the provisions of the *Dog and Cat Management Act 1995* (the Act) Council has the discretion to set dog registration fees and must notify the Dog and Cat Management Board.
- 1.2 Fees must be approved prior to 31 May 2023 to facilitate the update of fees on Dogs and Cats Online (DACO) the state-wide dog registration database, and the generation of new registrations for the 2023/24 period.
- 1.1 To provide consistency in the required categories on DACO the standard and non-standard dog category has been adopted since 2018. Categories include:
 - Standard Dog
 - Standard Dog – Working
 - Standard Dog – Concession
 - Non-Standard Dog
 - Non-Standard Dog – Working
 - Non-Standard Dog – Concession
 - Business Registration
 - Assistance Dog.
- 1.2 A standard dog is a “desexed and microchipped dog” and this category has a 50% rebate on the maximum fee which is applied to a “non-standard dog”.
- 1.3 A “non-standard dog” means a dog that either microchipped or desexed (but not both).
- 1.4 The Act requires that all money received by Council under the Act must be utilised by Council in the provision of dog and cat management services.
- 1.5 The City of Salisbury provides various dog and cat management services and facilities including:
 - Dog attack investigations;
 - Responding to dogs wandering at large, non-compliance with dog leashing laws and dog noise and nuisance complaints;
 - Maintenance of a guard dog register;
 - Support for micro-chipping days, desexing initiatives and off-leash Greyhound events;
 - Cat nuisance investigations, trapping services and cat relocations and impounds;
 - Dog rehoming with the Animal Welfare League;
 - Provision and maintenance of ten dog friendly parks and seven small dog parks and associated signage;
 - Provision of dog litter bags and dispensers;
 - Provision of information and educational material to the community; and
 - Operation of the dog pound facility.

- 1.6 In recent years, there has been additional investment in the construction/upgrade of dog parks and the construction of the new Pooraka Pound (in partnership with the City of Tea Tree Gully).
- 1.7 Dog registration fees provide the most consistent and predictable source of funding for expenditure associated with dog and cat management activities. Under the Act, 24% of dog registration fees collected are required to contribute to the Dog and Cat Management Fund which is managed by the Dog and Cat Management Board.
- 1.8 Registration numbers have remained consistent with average annual registrations at 22,712. Standard dog registrations have increased from 65% in 2018/19 to 73% of total registrations in 2021/22 as shown in Table 1 below.

Classification	2021-2022	2018-2019
Standard (including concessions)	16,101	14,963
Non-Standard (including concessions)	5,918	8,022
Other classifications	37	25
Total	22,056	23,010

- 1.9 It is expected that the percentage of standard dog registrations will continue to increase as new dog registrations transition to the standard dog category.
- 1.10 The 2022/23 fee structure is \$36 for a standard dog and \$72 for a non-standard dog, with a 50% concession in both categories (\$18 and \$36 respectively) for eligible concession card holders.
- 1.11 Thirty-seven percent (37%) of all current dog registrations attract a concession, paying a reduced fee of \$18 (26%) for standard dog registration, or \$36 (11%) for non-standard dog registration.
- 1.12 Almost half (49%) of all dog registrations are for a standard dog registration (without a concession) at a cost of \$36, with only 14% of all dog registrations attracting the maximum fee of \$72 for a non-standard dog registration (without a concession). Other categories (i.e. working dogs, business registrations and assistance dogs) make up less than 0.2% of all registrations.
- 1.13 Current dog registrations by category are shown in the piechart below.



- 1.14 In 2021/22 dog registration revenue was \$804,503. In the current financial year (2022/23) it is anticipated that the total revenue from dog registrations will make up 84% of all revenue at \$817,488.
- 1.15 Other revenue collected under the provisions of the Act includes expiations, fines and pound fees. These revenue sources account for approximately 16% of revenue in the current year, are variable and dependent on offences being committed and animals being impounded. In 2021/22 revenue from these sources was \$192,844. In 2022/23 it is projected to be \$157,900. Further details are provided in Attachment 2 - Revenue and Expenditure Estimates.
- 1.16 The costs for services and facilities relating to dog and cat management exceed the revenue generated through registration and other fees and require a cross-subsidisation from general rates revenue. While capital expenditure may vary from year to year, operating expenditure in 2021/22 exceeded revenue by \$595,450. In 2022/23, it is anticipated that operating expenditure will exceed revenue by approximately \$685,000. Without a fee increase to dog registrations in 2023/24, it is estimated that operating expenditure (\$1,823,193) would exceed revenue (\$1,038,668) by \$784,525.
- 1.17 The total expenditure on dog parks (renewals and new parks) since 2013/14 is shown in Table 3 below:

Location	Expenditure
Baltimore Reserve, Parafield Gardens	\$ 53,030
Canterbury Drive Reserve, Salisbury Heights	\$121,888
Dry Creek Linear Park, Mawson Lakes	\$ 47,987
Fairbanks Drive Reserve, Paralowie	\$152,996
Golding Oval, Ingle Farm	\$ 29,885
Happy Home Reserve, Salisbury	\$ 89,548
Jenkins Reserve, Salisbury Park	\$ 19,950
Kingswood Crescent Reserve, Paralowie	\$ 84,725
Pooraka Unity Park Reserve	\$ 28,419
The Paddocks Wetlands, Para Hills	\$134,456
Total	\$762,883

- 1.18 The construction of the new Pooraka Pound in 2022/23 is a generational investment with an upfront capital expenditure in the order of \$1.2M. Costs for the new Pound have been shared with the City of Tea Tree Gully, with a contribution of approximately \$489,000.

2. CONSULTATION / COMMUNICATION

2.1 Internal

2.1.1 Business Excellence

3. REPORT

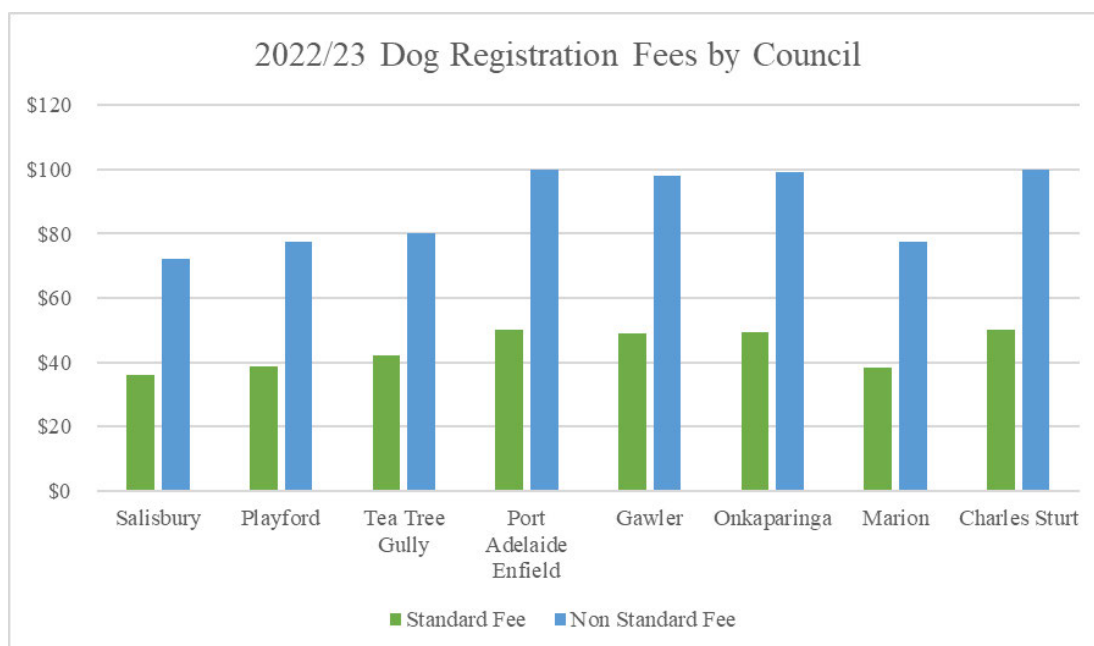
- 3.1 Council approval for the proposed 2023/2024 dog registration fees, rebates/exemptions and other fees is required prior to 31 May 2023 to facilitate the update and generation of new registrations for the 2023/24 period in DACO.

Dog Registration Fees

- 3.2 Dog registration fees contribute to the delivery of Council's dog management services and facilities consistent with the 'user pays' principle.
- 3.3 Table 4 below provides a summary of dog registration fees since 2018/19.

Year	Fee	Fee increase	Percentage change
2022/23	\$36/\$72	\$2	3.0%
2021/22	\$35/\$70	\$5	7.7%
2020/21	\$32.50/\$65	\$0	0%
2019/20	\$32.50/\$65	\$0	0%
2018/19	\$32.50/\$65	\$0	0%

- 3.4 There has been a minimal increase in dog registrations fees over the last five years. This has resulted in the City of Salisbury dog registration fees falling behind adjoining and other large metropolitan councils. This is shown in the graph below which provides a comparison of dog registration fees for the current financial year.



- 3.5 Dog registration fees for a non-standard dog in 2022/23 range from \$77.40 (City of Playford) to \$100 (Cities of Port Adelaide Enfield and Charles Sturt).
- 3.6 An appropriate increase in dog registration fees will ensure that the services provided for dog management are predominantly funded on a 'user pays' basis, rather than being subsidised by rate revenue. This is particularly important as an increasing proportion of dog registrations are in the standard category (i.e. desexed and microchipped) attracting the 50% rebate. This trend will continue as the Act requires all new dogs to be desexed and microchipped, unless exempted (e.g. breeding dog).
- 3.7 The potential range of dog registration fees (\$80, \$90 and \$100 for a non-standard dog, along with the 50% rebate for a standard dog, and 50% concession rebate) for 2023/24 is shown in Attachment 1 - Potential Dog Registration Fee by Category (\$80, \$90, \$100).
- 3.8 An analysis of the potential revenue associated with each scenario is shown in Attachment 2 - Revenue and Expenditure Estimates.

Proposed Dog registration fee rebates and exemptions

- 3.9 The City of Salisbury has the ability to adopt additional concessions/rebates for dog registration fees.
- 3.10 Consistent with previous policy, it is proposed that puppies and new dog registrations after 1 January attract a 50% rebate. Furthermore, Assistance dog registrations are proposed to continue to attract a 100% rebate (exemption).

Proposed new Dog registration fee rebates and exemptions

- 3.11 A number of additional opportunities for a reduced registration fee have been identified and are discussed below.
- 3.12 Over the last eight months, the main shelters agencies providing services to councils (i.e Animal Welfare League and the RSPCA) have been at maximum occupancy and with minimal places available to take animals from Council.

- 3.13 Administration has prioritised reuniting dogs with their owners wherever possible, however where owners are unable to be identified this has resulted in Council having to hold some unclaimed dogs for longer than the desired 72 hour period. In some instances this has been up to 8 weeks.
- 3.14 During this period, Administration has identified and worked successfully with alternative small not-for-profit shelter agencies that offer care for unwanted and unclaimed dogs to reduce the number of impounded dogs at the Pound.
- 3.15 Many shelters and not-for-profit shelter agencies utilise volunteers to foster their dogs to improve their welfare and assist in their training and temperament in an effort to support adoption and rehoming.
- 3.16 Under the Act, dogs held in the custody of the Animal Welfare League and the RSPCA do not have to be registered, but this does not apply to other shelter agencies registered as a not-for profit agency and/or endorsed by the Dog and Cat Management Board.
- 3.17 To support shelters, their volunteers and new dog adoptions from approved shelters, it is proposed to offer a full rebate on registration for approved shelters, and a full rebate on the first year of registration for adopted dogs that are desexed, microchipped, vaccinated and temperament tested for those dogs that are located within the City of Salisbury.
- 3.18 Approved shelters would be recognised as:
- Animal Welfare League
 - RSPCA
 - Any shelter agency registered as a not-for profit agency and/or endorsed by the Dog and Cat Management Board.
- 3.19 Similarly, it is proposed to offer a full rebate the first year of registration for adopted greyhound dogs that have been put through Greyhounds as Pets SA's training program and that are desexed, microchipped and vaccinated.

Other Fees

- 3.20 Additional fees charged by the City of Salisbury for dog and cat management include fees associated with the seizure, detention or destruction of dogs and cats, such as:
- 3.20.1 seizure fees;
 - 3.20.2 daily and long-term pound fees;
 - 3.20.3 veterinary or welfare costs;
 - 3.20.4 microchipping;
 - 3.20.5 desexing; and
 - 3.20.6 euthanasia fees.
- 3.21 These fees may be incurred whilst a dog or cat is held by the City of Salisbury (or its agents) at the pound or an alternative facility.
- 3.22 The seizure fee and daily pound fee have been reviewed and the following increases are recommended:
- 3.22.1 Seizure fee from \$80 to \$83 consistent with CPI
 - 3.22.2 Daily and long-term pound fees be increased from \$50 to \$52 (noting that the day 1 pound fee is inclusive of the seizure fee).
- 3.23 No increases to the other fees are proposed as these are charged at direct costs incurred.

Expiations

- 3.24 Other revenue collected under the Act includes expiations and fines recovered by the Fines Enforcement and Recovery Unit. These revenue sources are variable and dependent on offences being committed. Expiation fees and fines are legislated under the Act.

Proposed Dog and Cat Fee Schedule 2023/2024

- 3.25 The operating expenditure on dog and cat management services and facilities in 2023/24 is projected to be in the order of \$1,672,000. In addition, the proposed capital expenditure in the draft 2023/24 budget is in the order of \$400,000.
- 3.26 On the basis of the projected expenditure, dog registrations income will provide a cost recovery (or 'user-pays') in the order of 54% of the total cost with fees set at \$50/\$100 (standard dog/non-standard dog). This would result in a cross-subsidisation from rate revenue in the order of \$742,000, equating to approximately a 0.7% rate increase equivalent.
- 3.27 Dependent on the approved dog registration fees, the total expenditure on dog and cat services, could require a cross-subsidisation from rate revenue of up to \$913,000 if the lowest increase in fees was adopted (i.e. \$40 standard dog /\$80 non-standard dog).
- 3.28 The revenue and expenditure estimates are presented in Attachment 2 - Revenue and Expenditure Estimates.

- 3.29 On this basis it is recommended that the proposed dog registration fees are set at \$50 standard dog /\$100 non-standard dog (with 50% rebate for concessions).
- 3.30 Attachment 3 - Proposed Dog and Cat Management Act 1995 Fee Schedule 2023/2024 sets out all of the proposed dog registration fees, rebates and exemptions and other associated fees for consideration by Council.

4. CONCLUSION / PROPOSAL

- 4.1 The services provided by Council in the area of dog and cat management are diverse, resource intensive and involve a significant budget provision and cross-subsidy from rates revenue.
- 4.2 There is an opportunity to increase the current dog registration fees to contribute more to cost of delivering these services along with the administration and enforcement of the Act, noting that only 14% of current dog registrations attract the full non-standard dog fee.
- 4.3 Provision of new rebates for approved shelters, their volunteers and new dog adoptions will help support rehoming and provide an improved quality of life for older and unwanted dogs that are of suitable temperament. It will also reduce for euthanasia rates.
- 4.4 The report outlines options to increase registration fees and it is recommended that registration fees for 2023/24 be increased to \$50 for standard dog and the maximum of \$100 for non-standard dogs to reduce the level of subsidy of the services and facilities from general rate revenue.

This page intentionally left blank

Attachment 1 - Potential Dog Registration Fee by Category (\$80, \$90, \$100)

Registration Category	% rebate	2023/24 \$80 fee
Business Registration	0	\$80.00
Assistance Dog	100	\$0.00
Non Standard Dog	0	\$80.00
Standard Dog	50	\$40.00
Non Standard Dog - Concession	50	\$40.00
Standard Dog - Concession	75	\$20.00
Non Standard Dog - Working	0	\$80.00
Standard Dog - Working	50	\$40.00

Registration Category	% rebate	2023/24 \$90 fee
Business Registration	0	\$90.00
Assistance Dog	100	\$0.00
Non Standard Dog	0	\$90.00
Standard Dog	50	\$45.00
Non Standard Dog - Concession	50	\$45.00
Standard Dog - Concession	75	\$22.50
Non Standard Dog - Working	0	\$90.00
Standard Dog - Working	50	\$45.00

Registration Category	% rebate	2023/24 \$100 fee
Business Registration	0	\$100.00
Assistance Dog	100	\$0.00
Non Standard Dog	0	\$100.00
Standard Dog	50	\$50.00
Non Standard Dog - Concession	50	\$50.00
Standard Dog - Concession	75	\$25.00
Non Standard Dog - Working	0	\$100.00
Standard Dog - Working	50	\$50.00

This page intentionally left blank

Attachment 2 Revenue and Expenditure Estimates

Year	2021/22		2022/23		2023/24		2023/24		2023/24	
Budget Estimates	\$70.00 fee	Revenue as % of Total Expenditure	\$72 fee EOY Estimates	Revenue as % of Total Expenditure	2023/24 Estimates with \$80 fee	Revenue as % of Total Expenditure	2023/24 Estimates with \$90 fee	Revenue as % of Total Expenditure	2023/24 Estimates with \$100 fee	Revenue as % of Total Expenditure
Operating Revenue - Registration Fees	(\$804,503)	39	(\$817,488)	36	(\$900,840)	44	(\$1,013,445)	49	(\$1,126,050)	54
Operating Revenue - Other	(\$192,844)	9	(\$157,900)	7	(\$221,180)	11	(\$221,180)	11	(\$221,180)	11
Total Operating Revenue	(\$997,347)	49	(\$975,388)	42	(\$1,122,020)	55	(\$1,234,625)	60	(\$1,347,230)	64
Operating Expenditure	\$1,592,797		\$1,661,320		\$1,823,193		\$1,850,218		\$1,877,244	
Capital Expenditure*	\$456,238		\$636,508		\$212,000		\$212,000		\$212,000	
Total Expenditure	\$2,049,035		\$2,297,828		\$2,035,193		\$2,062,218		\$2,089,244	
Net Deficit / (Profit)	\$1,051,688		\$1,322,440		\$913,173		\$827,593		\$742,014	

* Capital expenditure, relates to the annual expenditure associated with the construction of Pooraka Pound and upgrades of dog parks, including the renewal program and new dog park construction.

This page intentionally left blank

Dog and Cat Management Act 1995 Fee Schedule 2023-2024

Dog Registration Fees Category	Percentage % rebate	2023/24 Registration fee \$100	2023/24 Registration fee Including \$10 Late fee
Business Registration	0	\$100.00	\$110.00
Assistance Dog	100	\$0.00	\$0.00
Non Standard Dog	0	\$100.00	\$110.00
Standard Dog	50	\$50.00	\$60.00
Non Standard Dog - Concession	50	\$50.00	\$60.00
Standard Dog - Concession	75	\$25.00	\$35.00
Non Standard Dog - Working	0	\$100.00	\$110.00
Standard Dog - Working	50	\$50.00	\$60.00

Other Dog Registration Fees	2022/23	2023/24
Transfer of Registration	N/A	N/A
	As determined by the DCMB	As determined by the DCMB
Replacement Disc Fee		
Late Registration Penalty (applies 3 clear business days from last day to pay annual registration)	\$10.00	\$10.00
Puppies aged 6 months or less	Standard Dog or Standard Dog - Concession Fee applies	Standard Dog or Standard Dog - Concession Fee applies
Part Year Rebate after 1 January and until end of current period for new dogs not previously registered in the area	Varies (50% of fee)	Varies (50% of fee)
Fee free registration period from 1 June to 30 June	\$0 for all registrations	\$0 for all registrations
Certified Extract from register (per page)	\$10.00	\$10.00

Fees for meeting any other requirement imposed on councils under the Dog and Cat Management Act 1995	2022/23	2023/24
Seizure Fee Seizing a dog for the purposes of impounding. Includes Day 1 (or first 24 hours) or part thereof of impounding.	\$80.00	\$83.00
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.	\$50.00 per day	\$52.00 per day
Daily Pound Fees – Long term hold for dog Applicable rate for each and every day dog held for consideration of appeals to Control Orders, and or legal action (onsite at pound or at alternative facility)	\$50.00 per day	\$52.00 per day
Daily Pound Fees – short or long term hold for cat Applicable rate for each and every day cat held for consideration of action taken under the Dog and Cat Management Act (onsite at pound or at alternative facility)	Varies (Direct costs incurred)	Varies (Direct costs incurred)
Veterinary Fees Applicable to dogs and cats, and all direct costs incurred will be claimed	Varies (Direct costs incurred)	Varies (Direct costs incurred)
Other animal welfare related costs includes euthanasia, microchipping, desexing (Applicable to dogs and cats and all direct costs incurred will be claimed)	Varies (Direct costs incurred)	Varies (Direct costs incurred)

Other Registration Fees (Adopted and Fostered Dogs)	2022/23	2023/24
Dogs adopted from recognised animal shelters Free dog registration for the first year of registration for dogs adopted from approved shelters An approved shelter is recognised as the Animal Welfare League South Australia, the RSPCA, and any shelter agency that is registered as a not-for-profit agency and or endorsed by the Dog and Cat Management Board, and interstate shelters endorsed as an approved shelter by interstate Councils or endorsed by the Dog and Cat Management Board. Rebate applies to dogs that are desexed, microchipped, vaccinated and temperament tested.	N / A	\$0 for first year of registration only.

Foster Dogs Dogs registered in the name of the shelter agency* and being cared for by foster carers are offered free registration for the first year of registration whilst they are in foster care and in the custody of these agencies. *Shelter agency is a registered as a not-for profit agency and or endorsed by the Dog and Cat Management Board, and interstate shelters endorsed as an approved shelter by interstate Councils or endorsed by the Dog and Cat Management Board.	N / A	\$0 for first year of registration only.
Greyhounds adopted as pets free dog registration for the first year of registration for greyhounds adopted from GAP SA or other similar agencies approved by the Dog and Cat Management Board	N / A	\$0 for first year of registration only.

ITEM	3.1.3
	GOVERNANCE AND COMPLIANCE COMMITTEE
DATE	17 April 2023
HEADING	Review of Food Act 2001 Inspection Fees Policy
AUTHOR	Manager Environmental Health & Community Compliance, City Development
CITY PLAN LINKS	1.2 The health and wellbeing of our community is a priority 4.4 We plan effectively to address community needs and identify new opportunities
SUMMARY	Council Policies are subject to bi-annual reviews by Council. The following report presents the <i>Food Act 2001</i> Inspection Fees Policy for consideration and approval.

RECOMMENDATION

That Council:

1. Adopts the Food Act 2001 Inspection Fees Policy as set out in Attachment 1 to this report (Governance and Compliance Committee 17 April 2023, Item No. 3.1.3).

ATTACHMENTS

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

1. Attachment 1 - Food Act 2001 - Inspection Fees Policy
2. Attachment 2 - Food Act 2001 - Inspection Fees Policy 2021 Tracked Changes

1. BACKGROUND

- 1.1 Council's Policy Framework provides for Council Policies to be reviewed within 12 months after the general election.
- 1.2 The *Food Act 2001* Inspection Fees Policy (the Policy) was last adopted by Council in February 2021 and is now due for review.

2. CONSULTATION / COMMUNICATION

2.1 Internal

- 2.1.1 Consultation has occurred with policy owners as to the continuing relevance of the Policy and any changes that may be required.

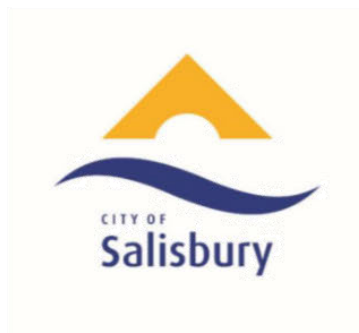
3. REPORT

- 3.1 This Policy depicts the circumstances and provision in which Council classifies and charges a food premises for an inspection.
- 3.2 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 *Food Act 2001*.

- 3.3 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.
- 3.4 The current maximum fees prescribed for inspections are set under Regulation 13 of the Food Regulations 2017, and prescribed by notice annually in the Government Gazette. The fees are adopted by Council and published in Council's Fees and Charges document annually and available online at: <https://www.salisbury.sa.gov.au/council/council-plans-and-registers/council-fees-and-charges>.
- 3.5 Minor amendments to the *Food Act 2001* Inspection Fees Policy are proposed and these changes are shown in tracked changes in Attachment 2.
- 3.6 It is proposed that the *Food Act 2001* Inspection Fees Policy be amended to provide for an exemption of fees for those operators of food premises, food stall or mobile food van at markets that trade across multiple markets on different days and have been inspected and charged fees within their annual inspection cycle.
- 3.7 Many of these traders operate at multiple sites on both Saturday and Sunday and they may be encountered at multiple sites in the City of Salisbury, as well as other markets in other Council areas.
- 3.8 The exemption from additional fees in circumstances where a business has been inspected as part of a routine premises at another location (or by another Council) and where the business can provide evidence of that inspection result would prevent mobile businesses from being disadvantaged for operating at multiple sites and being charged multiple fees.
- 3.9 It is considered that this amendment is reasonable and will reduce red tape and operating costs for these businesses, without increasing any substantive risk to public health. Any trader operating a stall at multiple markets on the same day however would be considered as separate premises and would be charged fees for each premises accordingly.
- 3.10 A further amendment is proposed to the clause addressing fees for a Notice or Order Follow Up Inspection. It is proposed that an inspection fee will be charged to all premises for inspections regardless of any further enforcement action that has been taken such as the issue of an expiation.
- 3.11 No other amendments to the Policy are proposed and Council is asked to consider adopting the new Food Act 2001 Inspection Fees Policy (as shown in Attachment 1).

4. CONCLUSION / PROPOSAL

- 4.1 The Policy review has resulted in minor proposed changes to the Policy as the content of the Policy continues to be of relevance.
- 4.2 Minor changes are proposed to reduce costs to mobile businesses that operate across multiple sites to reduce red tape.
- 4.3 The *Food Act 2001* Inspection Fees Policy as contained within Attachment 1 is recommended to Council for adoption.



City of Salisbury Values: Respectful, Accountable, Collaborative, Helpful

Food Act 2001 - Inspection Fees Policy

Adopted by:	Council
Responsible Division:	Environmental Health and Community Compliance
First Issued/Adopted:	26 June 2006
Last Reviewed:	24 April 2023
Next Review Date:	February 2025

1. Purpose

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

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.

2. Scope

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.

The current maximum fees for inspections are set under Regulation 13 of the Food Regulations 2017, and prescribed by notice annually in the Government Gazette.

Fees are established for two classes of business:

1. small business (where no more than 20 people (full time equivalents) are engaged in handling food; and
2. in any other case (other than small business)

Fees are adopted by Council and published in Council's Fees and Charges document annually.

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.

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.

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.

This policy has been developed in line with the model policy from the Local Government Association and SA Health.

3. Legislative Requirements and Corporate Policy Context

- 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 charges
- The South Australian Food Business Risk Classification, November 2018, South Australia. Department for Health and Wellbeing

4. Interpretation/Definitions

"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.

"Community and charitable organisation" means any group that does not provide financial gain to any members.

"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.

“Food transport vehicle” means a vehicle used to store and transport food for sale.

“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.

“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.

“Mobile food van” means a van/vehicle used to transport, prepare and offer food for sale directly from the vehicle for immediate consumption.

“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.

“Nominal risk food” includes, packaged foods low risk food items sold in the same packaging it has been received.

“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).

“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.

5. Policy Statements

Frequency of Inspections

- 5.1. 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.
- 5.2. Business risk ratings are based on the Australian New Zealand Food Authority Food Safety Priority classification system.
- 5.3. 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	6	18-24 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

Changes to Frequency

- 5.4. The frequency of inspection shall be changed under the following circumstances:
- 5.5. Businesses assessed using the Australian Food Safety Assessment tool:
 - 5.5.1. The frequency of inspection shall be increased to the maximum frequency for any business that registers
 - 5.5.1.1. 2 consecutive unsatisfactory (major non-compliance) inspection results , or
 - 5.5.1.2. an improvement notice or prohibition notice has been issued
 - 5.5.2. 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)
 - 5.5.3. 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.
- 5.6. Businesses assessed with the South Australian Food Safety Rating Scheme
 - 5.6.1. The frequency of inspection shall be increased to the maximum frequency when
 - 5.6.1.1. the businesses receive two consecutive zero (0) star ratings assessments, or

- 5.6.1.2. an improvement notice or prohibition notice has been issued
- 5.6.2. 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
- 5.6.3. 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.
- 5.7. New Proprietors
 - 5.7.1. The frequency of inspection shall revert to the starting frequency in the circumstance of a new proprietor.

Routine Inspections

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

Comments:

- 5.9. 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.
- 5.10. 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.
- 5.11. Mobile food vans operating at Markets will be subject to half fees as specified in clause 10.

Routine Inspections for Home Based Food Premises

- 5.12. 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:

- 5.13. 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.
- 5.14. 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.

Notice or Order Follow Up Inspections and Compliance Inspections

- 5.15. 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.
- 5.16. 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 Food Safety Rating and or AFSA report or verbally.

Comments:

- 5.17. 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.

Complaint Inspections

- 5.18. 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:

- 5.19. 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.

Community and charitable organisations

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

Comments:

- 5.21. 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
- 5.22. 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.
- 5.23. 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.

Local Sporting Clubs

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

Comments:

- 5.25. 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
- 5.26. 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.

Negligible risk businesses

- 5.27. P4 Negligible risk premises that are determined to require a regular inspection will have inspection fees applied.
- 5.28. 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.

Schools

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

Comments:

- 5.30. 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,

Festivals, fetes and shows

- 5.31. 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:

- 5.32. 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.
- 5.33. When events occur on a frequent basis they will be classified as "Food Markets" and fees can apply as per the following section.

Food Markets

- 5.34. 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.
- 5.35. 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.
 - If the business has been inspected as part of a routine premises at another location or by another Council and the business can provide evidence of that inspection result and report and it is within the Priority Classification Inspection Frequencies as specified above, then fees will not be charged.

Comments:

- 5.36. 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.

Businesses with Food Safety Programs

- 5.37. 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.
- 5.38. 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 2017 and the Food Safety Standards,
 - and
 - Council receives copies of all Audit Reports conducted by the 3rd party auditors.

Comments:

- 5.39. 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.
- 5.40. 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.
- 5.41. 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.
- 5.42. Premises that have an audited Plan not required by legislation at present are subject to regular inspections and subsequently fees are applicable.

6. Related Policies and Procedures

- 6.1 None applicable.

7. 7. Approval and Change History

Version	Approval Date	Approval By	Change
---------	---------------	-------------	--------

9

24 April 2023

Council

8. Availability

- 8.1 The Policy is available to be downloaded, free of charge, from Council's website www.salisbury.sa.gov.au
- 8.2 The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

City of Salisbury Community Hub
34 Church Street, Salisbury SA 5108
Telephone: 84068222
Email: city@salisbury.sa.gov.au

9. Review

This Policy will be reviewed:

- If a new Policy - within 12 months of a Council election and thereafter as necessary; or
- The frequency dictated in legislation; or
- Earlier in the event of changes to legislation or related Policies and Procedures; or
- If deemed necessary by Council.

Further Information

For further information on this Policy please contact:

Responsible Officer: Manager Environmental Health and Community Compliance
Address: 34 Church Street, Salisbury SA 5108
Telephone: 8406 8222
Email: city@salisbury.sa.gov.au



Food Act 2001 - Inspection Fees

Policy Type:	Policy		
Approved By:	Council	Decision No:	2178, 2009/1731, 2014/0050, 2016/1511, 0097/2019, 0849/2021
Approval Date:	26 June 2006	Most Recent Approval:	22 February 2021 24 April 2023
Review Date:	February 2023 2025	Internal Reference No.:	0849/2021
Department:	City Development	Division:	Environmental Health and Safety Community Compliance
Function:	11 - Health Management	Responsible Officer:	Manager Environmental Health and Safety Community Compliance

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. The current maximum fees for inspections are set under Regulation 13 of the Food Regulations 2017, and prescribed by notice annually in the Government Gazette.

Fees are established for two classes of business:

1. small business (where no more than 20 people (full time equivalents) are engaged in handling food; and
2. in any other case (other than small business)

Fees are adopted by Council and published in Council's Fees and Charges document annually.

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.

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 6	18-24 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, or

- an improvement notice has been issued
- 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, or
 - an improvement notice has been issued-
 - 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

- "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.
- "Community and charitable organisation" means any group that does not provide financial gain to any members.
- "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.
- "Food transport vehicle" means a vehicle used to store and transport food for sale.
- "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.
- "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.
- "Mobile food van" means a van/vehicle used to transport, prepare and offer food for sale directly from the vehicle for immediate consumption.
- "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.
- "Nominal risk food" includes, packaged foods low risk food items sold in the same packaging it has been received.
- "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 Food Safety Rating and or 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.
- If the business has been inspected as part of a routine premises at another location or by another Council and the business can provide evidence of that inspection result and report and it is within the Priority Classification Inspection Frequencies as specified above, then fees will not be charged.

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 2017~~92~~ 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	89
Document Status	Endorsed
Issue Date	22 February 2021 24 April 2023

ITEM	3.1.4
	GOVERNANCE AND COMPLIANCE COMMITTEE
DATE	17 April 2023
HEADING	Review of Enforcement Policy
AUTHOR	Manager Environmental Health & Community Compliance, City Development
CITY PLAN LINKS	4.1 Members of our community receive an exceptional experience when interacting with Council 4.2 We deliver quality outcomes that meet the needs of our community 4.4 We plan effectively to address community needs and identify new opportunities
SUMMARY	Council Policies are subject review within 12 months of a general election. The following report presents the Enforcement Policy for consideration and adoption.

RECOMMENDATIONThat Council:

1. Adopts the Enforcement Policy as set out in Attachment 1 to this report (Governance and Compliance Committee 17 April 2023, Item No. 3.1.4).

ATTACHMENTS

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

1. Attachment 1 - Enforcement Policy
2. Attachment 2 - Enforcement Policy 2021 tracked changes

1. BACKGROUND

- 1.1 Council's Policy Framework provides for Council Policies to be reviewed within 12 months after a general election.
- 1.2 The Enforcement Policy (the Policy) was last adopted by Council in February 2021 and is now due for review.

2. CONSULTATION / COMMUNICATION**2.1 Internal**

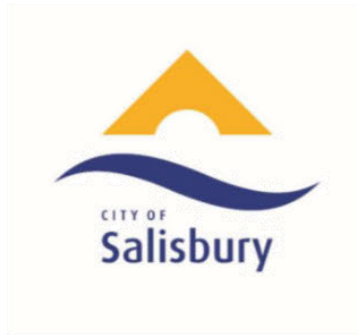
- 2.1.1 Assessment Manager
- 2.1.2 Team Leader Community Compliance
- 2.1.3 Team Leader Building
- 2.1.4 Team Leader Planning
- 2.1.5 Senior Environmental Health Officer

3. REPORT

- 3.1 Local Government is charged with legislative responsibilities which protect individuals and the community as a whole. Council's community and 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 carry out a range of activities that aim to educate, encourage and enforce compliance with legislative requirements.
- 3.2 The Enforcement Policy (the Policy) as shown in Attachment 1 outlines Council's approach to enforcement matters and provides staff with direction about the manner in which enforcement activities are to be undertaken in order to:
 - 3.2.1 provide consistency in enforcement action relating to legislative non-compliance;
 - 3.2.2 ensure transparency, procedural fairness and natural justice principles are applied; and
 - 3.2.3 ensure that enforcement action is proportionate to the alleged offence.
- 3.3 The Policy has been reviewed with some minor amendments proposed resulting in editorial changes that clarify elements of the policy, but do not amend the context and principles of the Policy.
- 3.4 The only proposed addition to the Policy is the clause recognising Civil Penalties as part of the new legislative framework introduced under the *Local Nuisance and Litter Control Act 2016* and the *Planning, Development, and Infrastructure Act 2016* and through legislated amendments.
- 3.5 Civil Penalties allow for greater flexibility in dealing with contraventions by recovering a civil penalty as an alternative to progressing criminal proceedings. The civil penalty may be recovered either by negotiation with the alleged offender or by application to the Court.
- 3.6 The benefit of this tool is in responding to situations that involve a breach of the Act that is serious enough to warrant some form of statutory compliance action (i.e. over and above a formal warning), but is not serious enough to warrant the full force of a criminal prosecution or civil enforcement proceedings. For example, this new process could be used where liquid waste has been discharged and requires clean up or in the event of unauthorised removal of a significant tree.
- 3.7 It is proposed that the application of Civil Penalties be authorised by the Chief Executive Officer or an Authorised Delegate.
- 3.8 The proposed amendments to the Policy are shown in tracked changes in Attachment 2 - Enforcement Policy 2021 tracked changes.

4. CONCLUSION / PROPOSAL

- 4.1 The Enforcement Policy has been reviewed. Minor changes are proposed to reflect legislative changes relating to Civil Penalties, along with minor editorial changes. No changes of substance are considered necessary to ensure its continuing relevance.
- 4.2 The Enforcement Policy as contained within Attachment 1 is recommended to Council for adoption.



City of Salisbury Values: Respectful, Accountable, Collaborative, Helpful

Enforcement Policy

Adopted by:	Council
Responsible Division:	Environmental Health and Community Compliance
First Issued/Adopted:	27 April 2010
Last Reviewed:	April 2023
Next Review Date:	February 2025

1. Purpose

Local Government is charged with legislative responsibilities which protect individuals and the community as a whole. Council's community and 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 carry out a range of activities that aim to educate, encourage and enforce compliance with legislative requirements.

This policy outlines Council's approach to enforcement matters and provides staff with direction about the manner in which enforcement activities are to be undertaken in order to:

- provide consistency in enforcement action relating to legislative non-compliance;
- ensure transparency, procedural fairness and natural justice principles are applied; and
- ensure that enforcement action is proportionate to the alleged offence

Enforcement activities include:

- Regular patrols of public spaces including roads, and local government land, to assess the use and activities being carried out to ensure compliance with applicable legislation,
- Regular and or routine inspections of private land, premises and facilities that must comply with legislation applicable to the premises, operators or activity being conducted,
- Inspections and investigations in response to customer requests and or complaints related to alleged legislative breaches or offences.
- Education programs and provision of a range of information to encourage community compliance with applicable laws and legislative requirements
- Issuing notices, orders, expiations or instigating prosecution to address non-compliances and generate compliance with legislative provisions.

2. Scope

This Policy is applicable to all enforcement actions and activity under legislation that is administered by Council.

3. Legislative Requirements and Corporate Policy Context

Local Government Act 1999

4. Interpretation/Definitions

None applicable

5. Policy Statements

Principles of Good Enforcement

- 5.1. 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.

Proportionality

- 5.2. A proportionate response means that Council's actions will be scaled to the seriousness of the breach.
- 5.3. 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.
- 5.4. 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.

- 5.5. Prosecution will generally be used for continuous or serious offences that pose a severe risk and hazard to the community.

Consistency

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

Transparency

- 5.8. 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).
- 5.9. 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.
- 5.10. Staff will be open to discussing potential and actual compliance failures, before, during and after formal action has been taken.
- 5.11. 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 and in most cases, this is required by the applicable legislation.
- 5.12. 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 investigation protocols.
- 5.13. Complainants will be advised of what action has been taken and why that action has been taken.

Authorised Officers

- 5.14. Only authorised officers/persons who are competent by training, qualification and/or experience will be authorised to take enforcement action.
- 5.15. 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 investigation protocols.

- 5.16. Officers are required to show their authorisations on demand (or as required by the specific Act they are administering).

Decision Making

- 5.17. 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:
- explaining legal requirements and, where appropriate, the means to achieve compliance;
 - providing an opportunity to discuss points of issue where appropriate;
 - allowing reasonable timeframes to achieve compliance
 - facilitating mediation between affected parties;
 - issuing a verbal or written warning; or
 - enforcement actions such as issuing an expiation, issuing an order/notice or instigating prosecution.
- 5.18. 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 and investigations protocols and the complainant will be advised.
- 5.19. In coming to a decision on the most appropriate means of enforcement, the officer shall consider, amongst other relevant factors:
- the seriousness of the offence;
 - the degree of wilfulness involved;
 - past history;
 - the consequences of non-compliance;
 - the likely effectiveness of the various enforcement options;
 - deterrence;
 - the effect on the community and other people; and
 - consistency of approach to similar breaches/offences.
- 5.20. The following principles should be exercised when choosing an enforcement strategy:
- No discrimination or bias against the person such as ethnicity, nationality, political association, religion, gender, sexuality or beliefs; and
 - No political advantage or disadvantage to a government, person holding (or a candidate for) public office, or any political group or party.
- 5.21. Where a personal association or relationship with the alleged offender or any other person involved exists:
- an alternative person will make decision; and
 - the facts about any conflict/relationship will be recorded in accordance with Council's Code of Conduct and Records Management protocols.
- 5.22. Written documentation will:

- 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;
- include the legislation contravened, measures necessary to ensure compliance and the consequences of non-compliance; and
- clearly differentiate between legal requirements and recommendations of good practice.

Enforcement Options

No Action

- 5.23. No action will be taken when, after investigation, no breaches of the legislation are discovered.
- 5.24. It may also be appropriate to take no action when:
- the complaint is frivolous, vexatious or trivial in nature;
 - the alleged offence is outside Council's area of authority; or
 - taking action may prejudice other major investigations.

Informal Action

- 5.25. Informal action to achieve compliance with legislation may include:
- offering verbal or written advice;
 - verbal warnings and requests for action; or
 - written warnings.
- 5.26. If written confirmation is required, advice from officers will be put clearly and simply.
- 5.27. The circumstances in which informal action may be appropriate include:
- the act or omission is not serious enough to warrant formal action;
 - the duty holder's past history reasonably suggests that informal action will secure compliance;
 - confidence in the individual/other body is high;
 - the consequences of non-compliance will not pose a significant risk; or
 - where informal action may prove more effective than a formal approach.
- 5.28. 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.

Mediation

- 5.29. 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.

Formal Action - Service of Orders and Notices

- 5.30. Various pieces of legislation specify the procedures which Councils must follow, in order to:
- advise of the intention to issue an Order/Notice;
 - invite submissions with respect to the matter;
 - order a person to do or refrain from doing a thing under specified circumstances; and/or
 - issue directions specifying how the Order/Notice may be complied with.
- 5.31. 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.
- 5.32. 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.
- 5.33. In most cases the person receiving the Order/Notice has a right of appeal to the appropriate court or other body as specified in the legislation such as the South Australian Civil and Administrative Tribunal 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.
- 5.34. Where there is evidence that an offence has been committed Council may issue an Expiation Notice or instigate 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.

Action in Regard to a Default

- 5.35. Failure to comply with an Order/Notice will incur further enforcement action such as expiation or prosecution.
- 5.36. 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.
- 5.37. The decision to carry out action in default will be made by the Chief Executive Officer or delegate.
- 5.38. 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.

Service of an Expiation Notice

- 5.39. 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.
- 5.40. The following circumstances are likely to warrant an Expiation Notice:
- Direct breaches of legislation administered by Council, where the nature of the offence is recurrent and requires continual enforcement action;
 - Direct breaches of legislation administered by Council where the officer has considered amongst other relevant factors, the factors listed in Clauses relating to Decision making.
 - Failure to correct an identified problem after having been given reasonable opportunity to do so by an Authorised Officer;
 - Failure to comply with the requirements of an Order/Notice;
 - Confidence in the individual/other body is low; or
 - A written warning has been given for a similar offence.

Prosecution

- 5.41. 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:
- a flagrant breach of the law such that public health, safety and welfare have been put at risk;
 - the alleged breach is too serious or the risks too great to be dealt with by means of an expiation;
 - a failure to correct an identified serious problem after having been given reasonable opportunity to do so;
 - a failure to comply with the requirements of an Order/Notice;
 - an established and recorded history of similar offences;
 - an unwillingness, on the part of the individual or other body, to prevent a recurrence of the problem; or
 - the recovery of the costs of the investigation or remedial work or financial compensation that are required by Council or an aggrieved party.
- 5.42. Where circumstances warrant a prosecution all relevant evidence and information will be considered to enable a consistent, fair and objective decision to be made.

- 5.43. Before a prosecution is recommended there must be substantial, reliable and admissible evidence that an identifiable person or organisation has committed the offence.
- 5.44. 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:
- whether the offence was premeditated;
 - the need to influence the offender's future behaviour;
 - the effect on the offender's or witness's physical or mental health, balanced against the seriousness of the offence;
 - the availability and efficacy of any alternatives to prosecution;
 - the prevalence of the alleged offence and the need for deterrence, both personal and general;
- 5.45. The final decision to prosecute will be made by the Chief Executive Officer or delegate.

Civil Penalties

- 5.46. New enforcement tools introduced via legislative amendments and within new legislation allows greater flexibility in dealing with contraventions by recovering a civil penalty in respect of a contravention, as an alternative to criminal proceedings.
- 5.47. The civil penalty may be recovered either by negotiation with the alleged offender or by application to the appropriate Court. The benefit of this tool is in situations involving a breach of the Act which is serious enough to warrant some form of statutory compliance action (i.e. over and above a formal warning), and there have been costs incurred or penalty is appropriate, but is not serious enough to warrant a criminal prosecution or civil enforcement proceedings.
- E.g. this new process could be used where waste has been discharged and caused pollution incident and costs incurred by the Council to remediate the concerns, or the removal of significant tree without approval.
- 5.48. The final decision to instigate Civil Penalties will be made by the Chief Executive Officer or delegate.

6. Related Policies and Procedures

6.1. Divisional Standard Operating Procedures

7. Approval and Change History

Version	Approval Date	Approval By	Change
8	24 April 2023	Council	

8. Availability

- 8.1 The Policy is available to be downloaded, free of charge, from Council's website www.salisbury.sa.gov.au
- 8.2 The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

City of Salisbury Community Hub
34 Church Street, Salisbury SA 5108
Telephone: 84068222
Email: city@salisbury.sa.gov.au

9. Review

This Policy will be reviewed:

- If a new Policy - within 12 months of a Council election and thereafter as necessary; or
- The frequency dictated in legislation; or
- Earlier in the event of changes to legislation or related Policies and Procedures; or
- If deemed necessary by Council.

Further Information

For further information on this Policy please contact:

Responsible Officer: Manager Environmental Health and Community Compliance
Address: 34 Church Street, Salisbury SA 5108
Telephone: 8406 8222
Email: city@salisbury.sa.gov.au

This page intentionally left blank



Enforcement Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	2011/5222165, 2013/1926, 2017/1726, 0097/2019, 0849/2021
Approval Date:	27 April 2010	Last Reapproval Date:	22 February 2023 24 April 2025
Review Date:	22 February 2023 2025	Internal Reference No.:	0849/2021
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 community and 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 a range of activities that aim to educate, encourage and enforce compliance with legislative requirements, which enforce compliance.
- 2.1. 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.~~
- 4.2. Enforcement activities include:
 - a. Regular patrols of public spaces including roads, and local government land, including streets and public places to assess the use and activities being carried out to ensure compliance with applicable legislation;
 - b. Regular and or routine inspections inspecting of private land, premises and facilities that must comply with legislation applicable to the premises, operators or activity being conducted, either on a routine programmed basis or on a random basis; and
 - b. Inspections and investigations in response to customer requests and or complaints related to alleged legislative breaches or offences responding to enquiries and complaints.
 - c. Education programs and provision of a range of information to encourage community

compliance with applicable laws and legislative requirements

d. Issuing notices, orders, expiations or instigating prosecution to address non-compliances and generate compliance with legislative provisions.

e.—

B - SCOPE

1. This policy is applicable Applies to all enforcement actions and activity s under all legislation that is administered by Council.

C – POLICY PURPOSE/OBJECTIVES

1. to provide consistency in enforcement action relating to –inlegislative –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:

- follow standard operating procedures wherever applicable;
- ensure fair, equitable and non-discriminatory treatment; and
- 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 and in most cases this is required by the applicable legislation.
- 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 investigation 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.
- 2.1.2.2. 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 investigation protocols.
- 2.2.2.3. 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:
 - explaining legal requirements and, where appropriate, the means to achieve

- compliance;
 - providing an opportunity to discuss points of issue where appropriate;
 - allowing reasonable timeframes to achieve compliance
 - facilitating mediation between affected parties;
 - issuing a verbal or written warning; or
 - 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 and investigations 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:
- the seriousness of the offence;
 - the degree of wilfulness involved;
 - past history;
 - the consequences of non-compliance;
 - the likely effectiveness of the various enforcement options;
 - deterrence;
 - the effect on the community and other people; and
 - 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:
 - the complaint is frivolous, vexatious or trivial in nature;
 - the alleged offence is outside Council's area of authority; or
 - taking action may prejudice other major investigations.

4.2. Informal Action

- 4.2.1. Informal action to achieve compliance with legislation may include:
 - offering verbal or written advice;
 - verbal warnings and requests for action; or
 - 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:
 - the act or omission is not serious enough to warrant formal action;
 - the duty holder's past history reasonably suggests that informal action will secure compliance;
 - confidence in the individual/other body is high;
 - the consequences of non-compliance will not pose a significant risk; or
 - 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:

- advise of the intention to issue an Order/Notice;
- invite submissions with respect to the matter;
- order a person to do or refrain from doing a thing under specified circumstances; and/or
- 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 or other body as specified in the legislation such as the South Australian Civil and Administrative Tribunal 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 instigate 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:

- Direct breaches of legislation administered by Council, where the nature of the offence is recurrent and requires continual enforcement action;
- Direct breaches of legislation administered by Council where the officer has considered amongst other relevant factors, the factors listed in [Clause 3.3 relating to Decision Making-3.3](#)
- Failure to correct an identified problem after having been given reasonable opportunity to do so by an Authorised Officer;
- Failure to comply with the requirements of an Order/Notice;
- Confidence in the individual/other body is low; or
- 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:

- a flagrant breach of the law such that public health, safety and welfare have been put at risk;

- the alleged breach is too serious or the risks too great to be dealt with by means of an expiation;
 - a failure to correct an identified serious problem after having been given reasonable opportunity to do so;
 - a failure to comply with the requirements of an Order/Notice;
 - an established and recorded history of similar offences;
 - an unwillingness, on the part of the individual or other body, to prevent a recurrence of the problem; or
 - 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:
- whether the offence was premeditated;
 - the need to influence the offender's future behaviour;
 - the effect on the offender's or witness's physical or mental health, balanced against the seriousness of the offence;
 - the availability and efficacy of any alternatives to prosecution;
 - the prevalence of the alleged offence and the need for deterrence, both personal and general;
- 4.4.4.5. The final decision to prosecute will be made by the Chief Executive Officer or delegate.

4.4.5. Civil Penalties

4.4.5.1. New enforcement tools introduced via legislative amendments and within new legislation allows greater flexibility in dealing with contraventions by recovering a civil penalty in respect of a contravention, as an alternative to criminal proceedings.

4.4.5.2. The civil penalty may be recovered either by negotiation with the alleged offender or by application to the appropriate Court. The benefit of this tool is in situations involving a breach of the Act which is serious enough to warrant some form of statutory compliance action (i.e. over and above a

formal warning), and there have been costs incurred or penalty is appropriate, but is not serious enough to warrant a criminal prosecution or civil enforcement proceedings.

4.4.5.2.1. E.g.this new process could be used where waste has been discharged and caused pollution incident and costs incurred by the Council to remediate the concerns, or the removal of significant tree without approval.

4.4.5.3. The final decision to instigate Civil Penalties 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	7.008
Document Status	Endorsed
Date Issued	22-February-2024 24 April 2023

This page intentionally left blank

ITEM	3.1.5
	GOVERNANCE AND COMPLIANCE COMMITTEE
DATE	17 April 2023
HEADING	Review of Private Parking Areas Act 1986 - Private Parking Agreements Policy
AUTHOR	Manager Environmental Health & Community Compliance, City Development
CITY PLAN LINKS	4.2 We deliver quality outcomes that meet the needs of our community 4.4 We plan effectively to address community needs and identify new opportunities
SUMMARY	Council Policies are subject to review within 12 months after a general election. The following report presents the Private Parking Areas Act - Private Parking Agreements Policy for consideration and adoption.

RECOMMENDATIONThat Council:

1. Adopts the Private Parking Areas Act 1986 - Private Parking Agreements Policy as set out in Attachment 1 to this report (Governance and Compliance Committee 17 April 2023, Item No. 3.1.5).

ATTACHMENTS

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

1. Attachment 1 - Private Parking Areas Act 1986 - Private Parking Agreements Policy
2. Attachment 2 - Private Parking Areas Act 1986 - Private Parking Agreements Policy 2021 Tracked changes

1. BACKGROUND

- 1.1 Council's Policy Framework provides for Council Policies to be reviewed within 12 months of a general election.
- 1.2 This Policy was last reviewed and adopted by Council in February 2021 and is now due for review.

2. CONSULTATION / COMMUNICATION**2.1 Internal**

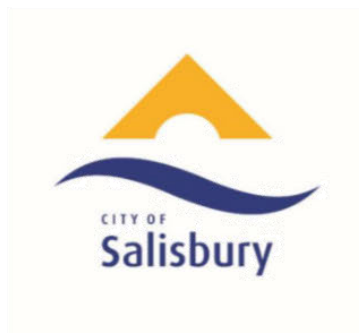
- 2.1.1 Consultation has occurred with policy owners as to the continuing relevance of the Policy and any changes that may be required.

3. REPORT

- 3.1 The Private Parking Areas Act 1986 - Private Parking Agreements Policy has been reviewed by the Policy Owner.
- 3.2 No changes of substance are required in the content of the Policy to ensure its continuing relevance with the exception of minor editing changes. These proposed edits are shown in Attachment 2 - Private Parking Areas Act 1986 - Private Parking Agreements Policy 2021 Tracked changes.
- 3.3 The proposed new Private Parking Areas Act 1986 - Private Parking Agreements Policy is shown in Attachment 1. Council's adoption of the new policy is sought.

4. CONCLUSION / PROPOSAL

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



City of Salisbury Values: Respectful, Accountable, Collaborative, Helpful

Private Parking Areas Act 1986- Private Parking Agreements Policy

Adopted by:	Council
Responsible Division:	Environmental Health and Community Compliance
First Issued/Adopted:	22 October 2012
Last Reviewed:	April 2023
Next Review Date:	February 2025

1. Purpose

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.

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 Council's enforcement policy

2. Scope

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

3. Legislative Requirements and Corporate Policy Context

- Private Parking Areas Act 1986
- Private Parking Areas Regulations 2014
- Expiation of Offences Act 1996
- Building Code of Australia
- Disability Discrimination Act 1992
- Local Government Act 1999

4. Interpretation/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 required to be authorised by the City of Salisbury under the Local Government Act 1999. None applicable

5. Policy Statements

Restrictions

- 5.1. 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.
- 5.2. The owner of a private parking area may set aside any part of the private parking area as—
 - a disabled persons parking area (accessible car parking spaces);
 - a loading area;
 - a no standing area;
 - a restricted parking area;
 - a permit parking area.
- 5.3. 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

- 5.4. 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.
- 5.5. 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.
- 5.6. 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 parking spaces for people with disabilities
 - 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 users as identified by the owner of the private parking area)
- 5.7. 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

- 5.8. Enforcement of the Private Parking Areas Act agreement shall only be carried out by authorised officers.
- 5.9. 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.
- 5.10. Enforcement action will be undertaken to ensure that private parking areas are;
- a. Effectively managed to ensure compliance with the Private Parking Areas Act
 - b. Utilised by the intended users of the parking area, namely shoppers, employees and other members of the community as identified
- 5.11. Enforcement action will give consideration to Council's Enforcement Policy, including, (but not limited to) the following:
- a. the car park capacity at the time of the patrol (are 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

- 5.12. Non-Council authorised officers shall apply the above principles to enforcement.

Non-Council Authorised Officers

- 5.13. Only officers who are competent by training, qualification and/or experience will be authorised to take enforcement action.
- 5.14. Officers will also have sufficient training and understanding of Council's policies and procedures to ensure a consistent approach to their duties.
- 5.15. Officers will be issued with an authority card and identification.
- 5.16. Officers are required to show their authorisations on demand.
- 5.17. 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.
- 5.18. 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.
- 5.19. Any requirements for further training may include a fee as determined by Council.

Agreements

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

6. Related Policies and Procedures

- 6.1. Private Parking Areas Act Application Form
- 6.2. Private Parking Areas Act Agreement
- 6.3. Authorised Officers Awareness Training – Local Government Act 1999

7. Approval and Change History

Version	Approval Date	Approval By	Change
6	24 April 2023	Council	

8. Availability

- 8.1 The Policy is available to be downloaded, free of charge, from Council's website www.salisbury.sa.gov.au
- 8.2 The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

City of Salisbury Community Hub
34 Church Street, Salisbury SA 5108
Telephone: 84068222
Email: city@salisbury.sa.gov.au

9. Review

This Policy will be reviewed:

- If a new Policy - within 12 months of a Council election and thereafter as necessary; or
- The frequency dictated in legislation; or
- Earlier in the event of changes to legislation or related Policies and Procedures; or
- If deemed necessary by Council.

Further Information

For further information on this Policy please contact:

Responsible Officer: Manager Environmental Health and Community Compliance
Address: 34 Church Street, Salisbury SA 5108
Telephone: 8406 8222
Email: city@salisbury.sa.gov.au



Private Parking Areas Act 1986- Private Parking Agreements

Policy Type:	Policy		
Approved By:	Council	Decision No:	2012/1260, 2014/0050, 2017/1730, 0097/2019, 0849/2021, 0849/2021
Approval Date:	22 October 2012	Last Reapproval Date:	22 February 2021 24 April 2023
Review Date:	22 February 2025 3	Internal Reference No.:	0849/2021
Department:	City Development	Division:	Environmental Health & Safety Community Compliance
Function:	20 - Traffic	Responsible Officer:	Manager, Environmental Health & Safety Community Compliance

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 Council's 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 required to be 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 parking spaces for people with disabilities
 - 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 users as identified by the owner of the private parking area)
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
 - 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 Council's Enforcement Policy, including, (but not limited to) the following:
 - a. the car park capacity at the time of the patrol (are 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 1992
- 5-6. Local Government Act 1999

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

Prepared by

Release

Document Status

Date Printed

Private Parking Areas Act 1986 - Private Parking Agreements

John Darzanos

5-006

Endorsed

ITEM	3.1.6
	GOVERNANCE AND COMPLIANCE COMMITTEE
DATE	17 April 2023
HEADING	Review Local Government Act 1999 Order Making Policy
AUTHOR	Manager Environmental Health & Community Compliance, City Development
CITY PLAN LINKS	4.2 We deliver quality outcomes that meet the needs of our community 4.4 We plan effectively to address community needs and identify new opportunities
SUMMARY	Council Policies are subject to review within 12 months after a general election. The following report presents the <i>Local Government Act 1999 Order Making Policy</i> for consideration and adoption.

RECOMMENDATIONThat Council:

1. Adopts the *Local Government Act 1999 Order Making Policy* as set out in Attachment 1 to this report (Governance and Compliance Committee 17 April 2023, Item No. 3.1.6).

ATTACHMENTS

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

1. Local Government Act 1999 Order Making Policy 2023
2. Local Government Order Making Policy 2019 Tracked Changes

1. BACKGROUND

- 1.1 Council's Policy Framework provides for Council Policies to be reviewed within 12 months after a general election.
- 1.2 The *Local Government Act 1999 Order Making Policy* (the Policy) was last adopted by Council in February 2019 and is now due for review.

2. CONSULTATION / COMMUNICATION**2.1 Internal**

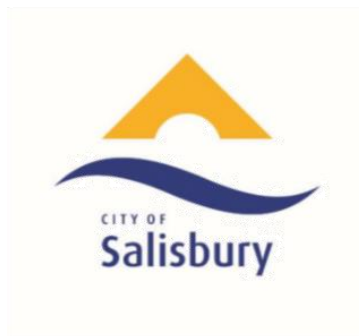
- 2.1.1 Manager Infrastructure Management
- 2.1.2 Technical Officer Compliance
- 2.1.3 Manager Field Services
- 2.1.4 Team Leader Community Compliance
- 2.1.5 Senior Environmental Health Officer

3. REPORT

- 3.1 Under the provisions of the *Local Government Act 1999* (the Act) the City of Salisbury is responsible to provide for the government and management of its area at a local level. In particular, it is the function of the Council to provide for the welfare, wellbeing and interests of the members of the community and to take measures to protect the area from hazards and to improve amenity.
- 3.2 To fulfil its functions, the Council has a range of statutory powers. These powers enable the Council to exercise its regulatory functions by making policies, orders and by-laws.
- 3.3 The Act requires the Council to prepare and adopt a policy for the operation of its order-making powers pursuant to Part 2 of Chapter 12 of the Act, to promote the health, safety and well-being of our community and good governance. The specific sections applicable to the order making powers are included in Sections 254, 216 and 218 of the Act.
- 3.3.1 Section 254 empowers the Council to make orders that may order a person to do, or refrain from doing, a specified thing that may be resulting in the following conditions:
- Hazards on lands adjoining a public place (e.g. overhanging trees or vegetation, dangerous fencing, etc).
 - Inappropriate use of vehicle (e.g. caravans as place of habitation).
- 3.3.2 Section 216 empowers the Council to order the owner of a private road to carry out specified roadwork to repair or improve the road.
- 3.3.3 Section 218 empowers the Council to order the owner of adjoining land to carry out specified work to construct, remove or repair a crossing place from the road to the land (a crossing place is a drive way access across the verge area).
- 3.4 The current policy has been reviewed and no significant changes with regards to the content of the policy and its application are proposed.
- 3.5 Minor changes to the policy document have been proposed by updating the table in Attachment A that sets out the Responsibility for Order Making Provisions under Section 254 of the *Local Government Act 1991*, to reflect existing positions and responsibilities.
- 3.6 The proposed amendments are shown in tracked changes in Attachment 2 - Local Government Order Making Policy 2019 Tracked Changes.
- 3.7 The proposed amendments do not result in any significant changes of policy substance.

4. CONCLUSION / PROPOSAL

- 4.1 The current policy has been reviewed by staff and no significant changes with regards to the content of the policy and its application are required to ensure its continuing relevance.
- 4.2 The proposed new *Local Government Act 1999 Order Making Policy* as contained within Attachment 1 is recommended for Council's adoption.



City of Salisbury Values: Respectful, Accountable, Collaborative, Helpful

Local Government Act 1999 - Order Making Policy

Adopted by:	Council
Responsible Division:	Environmental Health and Community Compliance
First Issued/Adopted:	24 April 2006
Last Reviewed:	April 2023
Next Review Date:	February 2025

1. Purpose

The City of Salisbury ("the Council") is responsible to provide for the government and management of its area at a local level. In particular it is the function of the Council to provide for the welfare, wellbeing and interests of the members of the community and to take measures to protect the area from hazards and to improve amenity.

To fulfil its functions, the Council has a range of statutory powers. These powers enable the Council to exercise its regulatory functions by making policies, orders and by-laws.

The Local Government Act 1999 requires the Council to prepare and adopt a policy for the operation of its order-making powers pursuant to Part 2 of Chapter 12 of the Local Government Act 1999, to promote the health, safety and well-being of our community and good governance.

2. Scope

This policy sets out the matters about which orders will be made. The relevant principles, and procedures that will be applied are also set out in this policy.

This policy applies to all owners or occupiers of lands within the City of Salisbury Council boundaries and this Policy will apply to the matters set out in the Local Government Act 1999 relating to the use and application of the order making powers, including:

- a. Section 254, which empowers the Council to order a person to do or refrain from doing a thing under certain circumstances, namely:
 - Prevent or eliminate hazards on lands adjoining a public place, and
 - Prevent the inappropriate use of vehicle (as a place of habitation).
- b. Section 216 which empowers the Council to order the owner of a private road to carry out specified roadwork to repair or improve the road.
- c. Section 218 which empowers the Council to order the owner of adjoining land to carry out specified work to construct, remove or repair a crossing place from the road to the land.

This Policy does not apply to other circumstances provided for in the Local Government Act 1999 and other South Australian Legislation that specifically empower the Council to make orders, when appropriate and as the need arises.

The exercise of the Council's order-making power, in accordance with this Policy and relevant statutes, co-exists with the Council's other regulatory powers.

This policy is also to be read in conjunction with Councils Enforcement Policy.

3. Legislative Requirements and Corporate Policy Context

- Local Government Act 1999

4. Interpretation/Definitions

The Act - means the Local Government Act 1999

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

5. Policy Statements

Matters to Which Policy Applies

- 5.1. The matters to which this Policy applies are set out in Section 254 and Section 216 and 218 of the Local Government Act 1999.
- 5.2. The powers of Section 254 are as specified in Table 1. Section 254 provides the power to make orders, and states that a council may order a person to do or to refrain from doing a thing specified in Column 1 of the following table if in the opinion of the council the circumstances specified opposite it in Column

2 of the table exist and the person comes within the description in Column 3 of the table.

Column 1 To do or to refrain from doing what?	Column 2 In what circumstances?	Column 3 To whom?
1. Hazards on lands adjoining a public place		
(1) To fence, empty, drain fill or cover land (including land on which there is a building or other structure).	(1) A hazard exists that is, or is likely to become, a danger to the public.	(1) The owner or occupier of the land.
(2) To remove overgrown vegetation, cut back overhanging branches, or to remove a tree.	(2) The vegetation, branches or tree create, or are likely to create, danger or difficulty to persons using a public place.	(2) The owner or occupier of the land.
(3) To remove or modify a flag or banner, a flagpole or sign, or similar object or structure that intrudes into a public place.	(3) The relevant object or structure creates, or is likely to create, danger or difficulty to persons using a public place.	(3) The owner or occupier of the land.
(4) Where the public place is a road to take action necessary to protect the road or to remove a hazard to road users. Examples (1) To fill an excavation, or to prevent drainage of water across the road. (2) To construct a retaining wall or to remove or modify a fence. (3) To fence land to prevent the escape of animals. <i>A reference in the table to an animal or animals includes birds and insects.</i> (4) To remove a structure or vegetation near an intersection.	(4) A situation exists that is causing, or is likely to cause, damage to the road or a hazard to road users.	(4) The owner or occupier of the land.
2. Inappropriate use of vehicle		
To refrain from using a caravan or vehicle as a place of habitation. Refer Attachment B for further information and guidelines.	A person is using a caravan or vehicle as a place of habitation in circumstances that (a) present a risk to the health or safety of an occupant; or (b) cause a threat of damage to the environment; or (c) detract significantly from the amenity of the locality.	The owner or occupier of the land or a person apparently occupying the caravan or vehicle.

5.3. The above table is an extract from the Act. The matters are stated in general terms with particular examples for illustration. These examples are not intended to be an exhaustive list of the circumstances in which the Policy will apply. They are included to assist the community to understand the purpose and intent of this Policy and the way in which it will be applied.

Section 216

5.4. Section 216 of the Act provides for the power to order owner of private road to carry out specified roadwork, and states:

- A council may, by order in writing to the owner of a private road, require the owner to carry out specified roadwork to repair or improve the road.

Section 218

- 5.5. Section 218 of the Act provides for the power to require the owner of adjoining land to carry out specified work, and states:
- A council may, by order in writing to the owner of land adjoining a road, require the owner to carry out specified work to construct, remove or repair a crossing place from the road to the land.

Principles

- 5.6. The Council will apply the following principles in the exercise of its powers to make orders. In each situation in which the Council is considering making an order to require a person to act or to refrain from acting, within its powers to do so, the Council will investigate and consider (to the extent that is relevant and necessary) the following circumstances:
- severity of the incident or circumstance;
 - hazard or danger posed to the community;
 - risk to health and safety of the community;
 - detraction from the amenity of the locality;
 - number of occurrences of the activity or incident;
 - impact of any previous actions to deal with the activity or incident;
 - significance of the breach, any other public interest or wellbeing considerations;
 - availability of a more appropriate response by the Council.

Procedures to be followed

- 5.7. The procedures to be followed in the issuing an order must be in accordance with the requirements of Section 255 of the Act.
- 5.8. Before making an order, unless the circumstances are urgent, the Council will give the person to whom an order is intended to be directed a notice in writing stating the:
- Proposed action;
 - Terms of the proposed order;
 - Period within which compliance with the order would be required;
 - Reasons for the proposed order;
 - Invite the person notified to make representations, within a specified time, as to why the penalties for non-compliance;
 - Penalties for non-compliance.

- 5.9. The Council will take reasonable steps, within available resources, to resolve cases requiring an order by negotiation and agreement before issuing an order, except in cases of threat to life, an immediate threat to public health or safety or an emergency situation.
- 5.10. Where notice of a proposed order has been given to a person who is not the owner of the relevant land, the Council must take reasonable steps to serve a copy of the notice on the owner of the land.
- 5.11. After considering the representations made by the person to whom notice of the order is directed, the Council may
- make an order in terms of the original proposal or
 - a modification of the original proposal or
 - Determine not to proceed with making an order.
 - the council is not required to give notice of an order with modifications
- 5.12. Upon issuing an order the Council may:
- include two or more orders in the same instrument, or
 - direct two or more persons to do something specified in the order jointly
- 5.13. An order that is issued must:
- specify a reasonable period within which the order must be complied with, and
 - state the reasons for the order.
- 5.14. An order must be served by the Council on the person to whom it is addressed. If the person to whom the notice and order are addressed is not the owner of the land, the Council must take reasonable steps to serve a copy of the notice and order on the owner of the land.
- 5.15. Service of orders is subject to the requirements of the Local Government Act Section 279—Service of documents by councils etc.
- 5.16. If the land is owned or occupied by more than one person, the order is not invalid merely because:
- It is not directed to all the owners, and
 - an owner or occupier who complies with an order may recover a fair contribution from the other owners or occupiers
- 5.17. The Council may at the request or agreement of the person to whom the order is directed, vary any order or may on its own initiative, revoke an order if satisfied it is appropriate to do so.

5.18. If the Council in particular case considers:

- An activity constitutes or is likely to constitute a threat to life or public health or safety, or
- An emergency situation exists,
- It may
- Proceed to make an order without giving notice, and
- Require immediate compliance with the order.

Rights of Review

5.19. In accordance with Section 256 of the Act an order must include a statement setting out the rights of review. The review process includes:

- The person to whom an order is directed may within 14 days after service of the order, seek a review of the order by SACAT under section 34 of the South Australian Civil and Administrative Tribunal Act 2013
- The operation of an order continues pending the determination of an application for review, unless the South Australian Civil and Administrative Tribunal, or Council makes an interim order suspending the operation of the order; The South Australian Civil and Administrative Tribunal may, if on an application for review, affirm, vary, or set aside the order.
- Council also has the ability to vary or revoke the order if satisfied that it is appropriate to do so;
- If the order is not complied with within the time fixed for compliance or, if relevant, within 14 days after the completion of any review, then the council may—
 - take the action required by the order (subject to the outcome of any review); and
 - recover the reasonable costs and expenses incurred by the council in taking that action from a person who fails to comply with the requirements of the order.

Action on Non-Compliance with an Order

5.20. Section 257 of the Act provides details of action to be taken in the case of non compliance of the order.

5.21. If the requirements of an order are not complied with in the time fixed for compliance or, if there is an application for review, within 14 days after the determination of the review, the council may (subject to the outcome of any review) take the action required by the order.

5.22. The Council or an employee of Council or another person authorized by Council, may, if the requirements of an order are not complied with within the time specified in the order, carry out the requirements of an order.

- 5.23. The reasonable costs and expenses of the Council in carrying out the requirements of an order may be recovered by the Council from the person who failed to comply with the order as a debt.
- 5.24. Where an amount is recoverable from a person by the Council, the Council may give that person notice in writing to pay the amount within no less than 28 days from the date of the notice.
- 5.25. If the person fails to pay the amount that person is liable to pay interest and, if the person is the owner of the land to which the order relates, the Council may impose a charge on the land for the unpaid amount and interest.
- 5.26. No civil liability attaches to a council, an employee of a council, or a person acting under the authority of a council, for anything done by the council, employee, or person under this section.

Penalties

- 5.27. Non-compliance with an order of the Council will constitute a breach of Section 258 of the Act and a person may incur statutory penalties provided for in the Act.
- 5.28. All orders of the Council will include the specific statutory penalty relevant to a breach of that particular order, and will advise of any applicable appeal rights.

Council Endorsement of the Policy

Any amendment or alteration to the Policy or a substitution of a new Policy is subject to public consultation provisions in Section 259(2) of the Local Government Act 1999. Council must, before adopting an amendment to a policy, commence public consultation unless the Council determines that the amendment is of only minor significance.

6. Related Policies and Procedures

- 6.1. Enforcement Policy
- 6.2. Responsibility for Order Making Provisions, Section 254 Local Government Act 1999 (Refer to attachment A)
- 6.3. Guideline for the Operation of Section 254 of the Local Government Act 1999 (Refer Attachment B)

7. Approval and Change History

Version	Approval Date	Approval By	Change
7	24 April 2023	Council	

8. Availability

- 8.1 The Policy is available to be downloaded, free of charge, from Council's website www.salisbury.sa.gov.au
- 8.2 The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

City of Salisbury Community Hub
34 Church Street, Salisbury SA 5108
Telephone: 84068222
Email: city@salisbury.sa.gov.au

9. Review

This Policy will be reviewed:

- If a new Policy - within 12 months of a Council election and thereafter as necessary; or
- The frequency dictated in legislation; or
- Earlier in the event of changes to legislation or related Policies and Procedures; or
- If deemed necessary by Council.

Further Information

For further information on this Policy please contact:

Responsible Officer: Manager Environmental Health and Community Compliance
Address: 34 Church Street, Salisbury SA 5108
Telephone: 8406 8222
Email: city@salisbury.sa.gov.au

Attachment A: - Responsibility for Order Making Provisions - Section 254 Local Government Act 1999

Order Provision	Details	Primary Responsibility	Secondary Responsibility /Support
3.1 Hazard on Land Adjoining Public Place	To fence, empty, drain, fill or cover land (including land on which there is a building or other structure).	Community Compliance	Development-Services to be consulted if potential structural concerns
	To remove overgrown vegetation, cut back overhanging branches, or to remove a tree.	City Infrastructure - first review and seek compliance	Community Compliance - will issue order when request is not complied with
	To remove or modify a flag or banner, a flagpole or sign, or similar object or structure that intrudes into a public place.	Community Compliance	Development-Services to be consulted if potential structural concerns
	Where the public place is a road—to take action necessary to protect the road or to remove a hazard to road users. Examples— <ul style="list-style-type: none"> To fill an excavation, or to prevent drainage of water across the road. To construct a retaining wall or to remove or modify a fence. To fence land to prevent the escape of animals. To remove a structure or vegetation near an intersection 	Community Compliance	Development-Services to be consulted if potential structural concerns or Development Applications
3.2 Inappropriate use of Vehicle	To refrain from using a caravan or vehicle as a place of habitation. Where a person is using a caravan or vehicle as a place of habitation in circumstances that— (a) present a risk to the health or safety of an occupant; or (b) cause a threat of damage to the environment; or (c) detract significantly from the amenity of the locality.	Community Compliance	Development-Services to be consulted if potential structural concerns or Development Applications Environmental Health relating to any waste water or public health impacts

Section 216 Local Government Act 1999

Order Provision	Details	Primary Responsibility	Secondary Responsibility /Support
Power to order owner of private road to carry out specified roadwork	A council may, by order in writing to the owner of a private road, require the owner to carry out specified roadwork to repair or improve the road.	City Infrastructure - Infrastructure Maintenance	Development Engineering as required Community Compliance as required relating to enforcement and orders

Section 218 Local Government Act 1999

Order Provision	Details	Primary Responsibility	Secondary Responsibility /Support
Power to require owner of adjoining land to carry out specified work	A council may, by order in writing to the owner of land adjoining a road, require the owner to carry out specified work to construct, remove or repair a crossing place from the road to the land.	City Infrastructure - Infrastructure Maintenance	Development Engineering as required Community Compliance as required relating to enforcement and orders

Attachment B: Guideline for the Operation of Section 254 of the Local Government Act 1999

Pertaining to the “Inappropriate use of a Vehicle”

The Council may make orders directed to an owner or occupier of land or a person apparently occupying a caravan or vehicle, which is used, as a place of habitation, to refrain from using the caravan or vehicle as a place of habitation if the following circumstances exist:

- Where use of a caravan or vehicle for habitation presents a risk to the health and safety of an occupant;
- Use of the vehicle as habitation causes a threat of damage to the environment;
- Use of the vehicle as habitation detracts significantly from the amenity of the locality.

Council has developed a list of guidelines that can be used by residents to assess their compliance with the above circumstances.

Where use of a caravan or vehicle for habitation presents a risk to the health and safety of an occupant

- Caravans or vehicles used for habitation must be of a suitable standard with regards to, structural soundness, cleanliness and hygiene.
- The caravan or vehicles, walls, ceiling and floors must be constructed of adequate and sound materials, and be weatherproofed.
- There has to be adequate provision for lighting and natural ventilation.
- The fixtures, fittings and furniture must be clean and sanitary.
- Connections to a mains power supply must be in accordance with the provisions of the relevant power authority.
- The number of occupants must not exceed the recommended capacity of the van
- Adequate sanitary facilities and ablution facilities (toilet and shower) must be provided for the occupant.

Please note that the sanitary facilities and ablution facilities on the caravan or vehicle must not be used unless adequately connected to sewer. (Approval may be required for this)

Use of the vehicle as habitation causes a threat of damage to the environment

- Areas of concern may include any impact on the environment including, air, water, soil or noise pollution, including;
- The improper discharge of solid or liquid wastes from the caravan or vehicle
- The emission of any offensive materials or odours from the caravan or vehicle
- The emission of excessive noise from the caravan or vehicle, or occupants

Use of the vehicle as habitation detracts significantly from the amenity of the locality.

- Areas of concern that could be considered to detract significantly from the amenity of the locality, include:

- o Locating the caravan or vehicle in the front yard
 - o Locating the caravan or vehicle up against a neighbouring fence, (a minimum distance of 600mm should be maintained between the caravan and fence, or 900mm if there is a window in the caravan that faces the neighbouring property.
 - o An unsightly appearance of the caravan or vehicle
- Note: Some allotments may not be suitable to accommodate a caravan or vehicle due to the size and shape.

Development Controls

In situations where;

- Occupancy of a caravan or vehicle for a period of greater than 12 months, or
- Where the subject land does not presently contain a lawfully habitable dwelling,
- Formal Development Approval is required from the Council

Other Provisions

The above examples are not to be considered to be absolute. Council may take other things into consideration when investigating an “Inappropriate use of a vehicle”. Each assessment will take into consideration relevant local factors and circumstances.

Further Information

If you require further information regarding the above matters please contact City of Salisbury on 84068222.



Local Government Act 1999 - Order Making Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	2073, 2008/1314, 2011/469, 2013/1754 , 2062/2017, 0211/2019
Approval Date:	24 April 2006	Most Recent Approval:	June 2019 <u>24 April 2025</u>
Review Date:	June 2024 <u>February 2025</u>	Internal Reference No.:	
Department:	City Development	Division:	Environmental Health & Safety <u>Community Compliance</u>
Function:	5 - Environmental Management	Responsible Officer:	Manager, Environmental Health & Safety <u>Community Compliance</u>

A - PREAMBLE

Power to Make Orders

1. The *Local Government Act 1999* requires the Council to prepare and adopt a policy for the operation of its order-making power.

~~1.2.~~ 2. This Policy will apply to the matters set out in the *Local Government Act 1999* including:

- a. Section 254 which empowers the Council to order a person to do or refrain from doing a thing under certain circumstances, namely:
 - i. Prevent or eliminate hazards on lands adjoining a public place
 - ii. Prevent the inappropriate use of vehicle (as a place of habitation).
- b. Section 216 which empowers the Council to order the owner of a private road to carry out specified roadwork to repair or improve the road.
- c. Section 218 which empowers the Council to order the owner of adjoining land to carry out specified work to construct, remove or repair a crossing place from the road to the land.

~~2.3.~~ 3. This Policy does not apply to other circumstances provided for in the *Local Government Act 1999* and other South Australian Legislation that specifically empower the Council to make orders, when appropriate and as the need arises.

~~3.4.~~ 4. The exercise of the Council's order-making power, in accordance with this Policy and relevant statutes, co-exists with the Council's other regulatory powers. For example, the Council has power to make and enforce by-laws in certain circumstances and to enforce compliance with the requirements of the *Local Government Act 1999* and a range of other legislation.

~~4.5.~~ 5. This policy is also to be read in conjunction with Councils Enforcement Policy.

B - SCOPE

1. This policy applies to all owners or occupiers of lands within the City of Salisbury Council boundaries.

Matters to Which Policy Applies

1. The matters to which this Policy applies are set out in Section 254 and Section 216 and 218 of the *Local Government Act 1999*.

Section 254:

2. The following table is an extract from the Act. The matters are stated in general terms with particular examples for illustration. These examples are not intended to be an exhaustive list of the circumstances in which the Policy will apply. They are included to assist the community to understand the purpose and intent of this Policy and the way in which it will be applied.

Section 254 Power to make orders, states:

254. A council may order a person to do or to refrain from doing a thing specified in Column 1 of the following table if in the opinion of the council the circumstances specified opposite it in Column 2 of the table exist and the person comes within the description opposite it in Column 3 of the table.

Column 1 To do or to refrain from doing what?	Column 2 In what circumstances?	Column 3 To whom?
1. Hazards on lands adjoining a public place		
(1) To fence, empty, drain fill or cover land (including land on which there is a building or other structure).	(1) A hazard exists that is, or is likely to become, a danger to the public.	(1) The owner or occupier of the land.
(2) To remove overgrown vegetation, cut back overhanging branches, or to remove a tree.	(2) The vegetation, branches or tree create, or are likely to create, danger or difficulty to persons using a public place.	(2) The owner or occupier of the land.
(3) To remove or modify a flag or banner, a flagpole or sign, or similar object or structure that intrudes into a public place.	(3) The relevant object or structure creates, or is likely to create, danger or difficulty to persons using a public place.	(3) The owner or occupier of the land.
(4) Where the public place is a road to take action necessary to protect the road or to remove a hazard to road users. Examples (1) To fill an excavation, or to prevent drainage of water across the road. (2) To construct a retaining wall or to remove or modify a fence. (3) To fence land to prevent the escape of animals. (4) To remove a structure or vegetation near an intersection.	(4) A situation exists that is causing, or is likely to cause, damage to the road or a hazard to road users.	(4) The owner or occupier of the land.
2. Inappropriate use of vehicle		

Column 1 To do or to refrain from doing what?	Column 2 In what circumstances?	Column 3 To whom?
To refrain from using a caravan or vehicle as a place of habitation. Refer Attachment A for further information and guidelines.	A person is using a caravan or vehicle as a place of habitation in circumstances that (a) present a risk to the health or safety of an occupant; or (b) cause a threat of damage to the environment; or (c) detract significantly from the amenity of the locality.	The owner or occupier of the land or a person apparently occupying the caravan or vehicle.

Section 216

3. Section 216 Power to order owner of private road to carry out specified roadwork, states:
- (1) A council may, by order in writing to the owner of a private road, require the owner to carry out specified roadwork to repair or improve the road.

Section 218

4. Section 218 Power to require owner of adjoining land to carry out specified work, states:
- (1) A council may, by order in writing to the owner of land adjoining a road, require the owner to carry out specified work to construct, remove or repair a crossing place from the road to the land.

C – POLICY PURPOSE/OBJECTIVES

- The City of Salisbury ("the Council") is responsible to provide for the government and management of its area at a local level. In particular it is the function of the Council to provide for the welfare, wellbeing and interests of the members of the community and to take measures to protect the area from hazards and to improve amenity.
- To fulfill its functions, the Council has a range of statutory powers. These powers enable the Council to exercise its regulatory functions by making policies, orders and by-laws. The Council has resolved to develop an order-making policy in relation to the exercise of the Council's powers pursuant to Part 2 of Chapter 12 of the *Local Government Act 1999*, to promote the health, safety and well-being of our community and good governance. This policy sets out the matters about which orders will be made. The relevant principles, procedures and penalties that will be applied are also set out in this policy.

D - DEFINITIONS

- "**The Act**" means the Local Government Act 1999

E - POLICY STATEMENT**Principles**

- The Council will apply the following principles in the exercise of its powers to make orders:
- In each situation in which the Council is considering making an order to require a person to act or to refrain from acting, within its powers to do so, the Council will investigate and consider (to the extent that is relevant and necessary) the following circumstances:
 - The severity of the incident or circumstance;
 - The hazard or danger posed to the community;

- The risk to health and safety of the community;
- Detraction from the amenity of the locality;
- The number of occurrences of the activity or incident;
- The impact of any previous actions to deal with the activity or incident;
- The significance of the breach, any other public interest or wellbeing considerations;
- The availability of a more appropriate response by the Council.

Procedures to be followed

1. The procedures to be followed in the issuing an order must be in accordance with the requirements of Section 255 of the Act. Before making an order, unless the circumstances are urgent, the Council will take the following actions:
2. Give the person to whom an order is intended to be directed a notice in writing stating the:
 - Proposed action;
 - Terms of the proposed order;
 - Period within which compliance with the order would be required;
 - Reasons for the proposed order;
 - Invite the person notified to make representations, within a specified time, as to why the penalties for non-compliance;
 - Penalties for non-compliance.
3. The Council will take reasonable steps, within available resources, to resolve cases requiring an order by negotiation and agreement before issuing an order, except in cases of threat to life, an immediate threat to public health or safety or an emergency situation.
4. Where notice of a proposed order has been given to a person who is not the owner of the relevant land, the Council must take reasonable steps to serve a copy of the notice on the owner of the land.
5. After considering the representations made by the person to whom notice of the order is directed, the Council may
 - make an order in terms of the original proposal or
 - a modification of the original proposal or
 - Determine not to proceed with making an order.
 - the council is not required to give notice of an order with modifications
6. Upon issuing an order the Council may:
 - include two or more orders in the same instrument, or
 - direct two or more persons to do something specified in the order jointly
7. An order that is issued must:
 - specify a reasonable period within which the order must be complied with, and
 - state the reasons for the order.
8. An order must be served by the Council on the person to whom it is addressed. If the person to whom the notice and order are addressed is not the owner of the land, the Council must take reasonable steps to serve a copy of the notice and order on the owner of the land.
9. Service of orders is subject to the requirements of the Local Government Act Section 279—Service of documents by councils etc.
10. If the land is owned or occupied by more than one person, the order is not invalid merely because:
 - It is not directed to all the owners, and
 - an owner or occupier who complies with an order may recover a fair contribution from the other owners or occupiers

11. The Council may at the request or agreement of the person to whom the order is directed, vary any order or may on its own initiative, revoke an order if satisfied it is appropriate to do so.
12. If the Council in particular case considers:
 - An activity constitutes or is likely to constitute a threat to life or public health or safety, or
 - An emergency situation exists,
 - It may
 - Proceed to make an order without giving notice, and
 - Require immediate compliance with the order.

Rights of Review

1. In accordance with Section 256 of the Act an order must include a statement setting out the rights of review. The review process includes:
 - The person to whom an order is directed may within 14 days after service of the order, seek a review of the order by SACAT under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013*
 - The operation of an order continues pending the determination of an application for review, unless the South Australian Civil and Administrative Tribunal, or Council makes an interim order suspending the operation of the order; The South Australian Civil and Administrative Tribunal may, if on an application for review, affirm, vary, or set aside the order.
 - Council also has the ability to vary or revoke the order if satisfied that it is appropriate to do so;
 - If the order is not complied with within the time fixed for compliance or, if relevant, within 14 days after the completion of any review, then the council may—
 - take the action required by the order (subject to the outcome of any review); and
 - (ii) recover the reasonable costs and expenses incurred by the council in taking that action from a person who fails to comply with the requirements of the order.

Action on Non-Compliance with an Order

1. Section 257 of the Act provides details of action to be taken in the case of non compliance of the order.
2. If the requirements of an order are not complied with in the time fixed for compliance or, if there is an application for review, within 14 days after the determination of the review, the council may (subject to the outcome of any review) take the action required by the order.
3. The Council or an employee of Council or another person authorized by Council, may, if the requirements of an order are not complied with within the time specified in the order, carry out the requirements of an order.
4. The reasonable costs and expenses of the Council in carrying out the requirements of an order may be recovered by the Council from the person who failed to comply with the order as a debt.
5. Where an amount is recoverable from a person by the Council, the Council may give that person notice in writing to pay the amount within no less than 28 days from the date of the notice.
6. If the person fails to pay the amount that person is liable to pay interest and, if the person is the owner of the land to which the order relates, the Council may impose a charge on the land for the unpaid amount and interest.
7. No civil liability attaches to a council, an employee of a council, or a person acting under the authority of a council, for anything done by the council, employee, or person under this section.

Penalties

1. Non-compliance with an order of the Council will constitute a breach of Section 258 of the Act and a person may incur statutory penalties provided for in the Act. The maximum penalty is \$2500 and the Expiation fee is \$210.
2. All orders of the Council will include the specific statutory penalty relevant to a breach of that particular order, and will advise of any applicable appeal rights.

Council Endorsement of the Policy

1. Any amendment or alteration to the Policy or a substitution of a new Policy is subject to public consultation provisions in Section 259(2) of the Local Government Act 1999. Council must, before adopting an amendment to a policy, commence public consultation unless the Council determines that the amendment is of only minor significance.

Availability of the Policy

1. This Policy will be available for inspection at the Council's principal office during ordinary business hours. Copies will also be provided to interested members of the community upon request, and upon payment of such fee (if any) as the Council may, in its discretion, fix.

F - LEGISLATION

1. *Local Government Act 1999*, Section 254 to 259 inclusive, Section 216 and Section 218

H - ASSOCIATED PROCEDURES / POLICY

1. Responsibility for Order Making Provisions, Section 254 *Local Government Act 1999* (Refer to attachment [AB](#))

[1.2.Guideline for the Operation of Section 254 of the Local Government Act 1999 \(Refer Attachment B\)](#)

[2.3](#)City of Salisbury Enforcement Policy

Document Control

Document ID	Local Government Act - Order Making Policy
Prepared by	John Darzanos
Version	6.07.0
Document Status	Draft
Issue Date	

Attachment AB: - Responsibility for Order Making Provisions - Section 254 Local Government Act 1999

Order Provision	Details	Primary Responsibility	Secondary Responsibility /Support
3.1 Hazard on Land Adjoining Public Place	To fence, empty, drain, fill or cover land (including land on which there is a building or other structure).	Community Compliance	Development-Services to be consulted if potential structural concerns
	To remove overgrown vegetation, cut back overhanging branches, or to remove a tree.	City Infrastructure - first review and seek compliance	Community Compliance – will issue order when request is not complied with
	To remove or modify a flag or banner, a flagpole or sign, or similar object or structure that intrudes into a public place.	Community Compliance	Development-Services to be consulted if potential structural concerns
	Where the public place is a road—to take action necessary to protect the road or to remove a hazard to road users. Examples— <ul style="list-style-type: none"> To fill an excavation, or to prevent drainage of water across the road. To construct a retaining wall or to remove or modify a fence. To fence land to prevent the escape of animals. To remove a structure or vegetation near an intersection 	Community Compliance	Development-Services to be consulted if potential structural concerns or Development Applications
3.2 Inappropriate use of Vehicle	To refrain from using a caravan or vehicle as a place of habitation. Where a person is using a caravan or vehicle as a place of habitation in circumstances that— (a) present a risk to the health or safety of an occupant; or (b) cause a threat of damage to the environment; or (c) detract significantly from the amenity of the locality.	Community Compliance	Development-Services to be consulted if potential structural concerns or Development Applications Environmental Health relating to any waste water or public health impacts

Order Provision 3.1 Hazard on Land Adjoining Public Place	Details A dangerous fence adjoining any road, community land or public place	Primary Responsibility General Inspectorate	Other Information Development Services to be consulted if potential structural concerns
-	Where there are overhanging branches, overgrown vegetation or structures on land adjoining a public place which obstruct streets;	General Inspectorate	Development Services to be consulted if potential structural concerns or City Infrastructure
-	Where there is drainage of water across the road;	General Inspectorate	Development Services for storm water related issues, or Environmental Health
-	Where a flag, banner, flagpole or sign intrudes into a public place;	General Inspectorate	Development Services to be consulted if potential structural concerns or Development approval required
3.2 Inappropriate use of Vehicle	Where use of a caravan or vehicle for habitation presents a risk to the health and safety of an occupant; Use of the vehicle as habitation causes a threat of damage to the environment; Use of the vehicle as habitation detracts significantly from the amenity of the locality.	Environmental Health and Safety Section	Development Services to be Consulted, for location issues and amenity

Section 216 Local Government Act 1999

Order Provision	Details	Primary Responsibility	<u>Secondary Responsibility</u> <u>/Support</u> Other Information
Power to order owner of private road to carry out specified roadwork	A council may, by order in writing to the owner of a private road, require the owner to carry out specified roadwork to repair or improve the road.	City Infrastructure <u>Infrastructure Maintenance</u>	Development Engineering as required <u>Community Compliance</u> Inspectorate support as required relating to enforcement and orders

Section 218 Local Government Act 1999

Order Provision	Details	Primary Responsibility	<u>Secondary Responsibility</u> <u>/Support</u> Other Information
Power to require owner of adjoining land to carry out specified work	A council may, by order in writing to the owner of land adjoining a road, require the owner to carry out specified work to construct, remove or repair a crossing place from the road to the land.	City Infrastructure <u>Infrastructure Maintenance</u>	Development Engineering as required <u>Community Compliance</u> Inspectorate support as required relating to enforcement and orders

Attachment BA: Guideline for the Operation of Section 254 of the Local Government Act 1999***Pertaining to the “Inappropriate use of a Vehicle”***

The Council may make orders directed to an owner or occupier of land or a person apparently occupying a caravan or vehicle, which is used, as a place of habitation, to refrain from using the caravan or vehicle as a place of habitation if the following circumstances exist:

- Where use of a caravan or vehicle for habitation presents a risk to the health and safety of an occupant;
- Use of the vehicle as habitation causes a threat of damage to the environment;
- Use of the vehicle as habitation detracts significantly from the amenity of the locality.

Council has developed a list of guidelines that can be used by residents to assess their compliance with the above circumstances.

Where use of a caravan or vehicle for habitation presents a risk to the health and safety of an occupant

- Caravans or vehicles used for habitation must be of a suitable standard with regards to, structural soundness, cleanliness and hygiene.
- The caravan or vehicles, walls, ceiling and floors must be constructed of adequate and sound materials, and be weatherproofed.
- There has to be adequate provision for lighting and natural ventilation.
- The fixtures, fittings and furniture must be clean and sanitary.
- Connections to a mains power supply must be in accordance with the provisions of the relevant power authority.
- The number of occupants must not exceed the recommended capacity of the van
- Adequate sanitary facilities and ablution facilities (toilet and shower) must be provided for the occupant.

Please note that the sanitary facilities and ablution facilities on the caravan or vehicle must not be used unless adequately connected to sewer. (Approval may be required for this)

Use of the vehicle as habitation causes a threat of damage to the environment

- Areas of concern may include any impact on the environment including, air, water, soil or noise pollution, including;
- The improper discharge of solid or liquid wastes from the caravan or vehicle
- The emission of any offensive materials or odours from the caravan or vehicle
- The emission of excessive noise from the caravan or vehicle, or occupants

Use of the vehicle as habitation detracts significantly from the amenity of the locality.

- Areas of concern that could be considered to detract significantly from the amenity of the locality, include:
 - Locating the caravan or vehicle in the front yard
 - Locating the caravan or vehicle up against a neighbouring fence, (a minimum distance of 600mm should be maintained between the caravan and fence, or 900mm if there is a window in the caravan that faces the neighbouring property.
 - An unsightly appearance of the caravan or vehicle

- Note: Some allotments may not be suitable to accommodate a caravan or vehicle due to the size and shape.

Development Controls

In situations where;

- Occupancy of a caravan or vehicle for a period of greater than 12 months, or
- Where the subject land does not presently contain a lawfully habitable dwelling,
- Formal Development Approval is required from the Council

Other Provisions

The above examples are not to be considered to be absolute. Council may take other things into consideration when investigating an “Inappropriate use of a vehicle”. Each assessment will take into consideration relevant local factors and circumstances.

Further Information

If you require further information regarding the above matters please contact City [of Salisbury Development](#) on 8406822²¹.

This page intentionally left blank

ITEM	3.1.7
	GOVERNANCE AND COMPLIANCE COMMITTEE
DATE	17 April 2023
HEADING	Footpath Trading Policy Review
AUTHOR	Manager Environmental Health & Community Compliance, City Development
CITY PLAN LINKS	3.1 Salisbury's businesses are successful and part of our community 3.3 Our infrastructure supports investment and business activity 4.2 We deliver quality outcomes that meet the needs of our community
SUMMARY	Council Policies are subject to review within 12 months after a general election. The following report presents the Footpath Trading Policy for consideration and adoption.

RECOMMENDATIONThat Council:

1. Adopts the Footpath Trading Policy as set out in Attachment 1 to this report (Governance and Compliance Committee 17 April 2023, Item No. 3.1.7).

ATTACHMENTS

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

1. Footpath Trading Policy
2. Footpath Trading Policy 2021 Tracked Changes

1. BACKGROUND

- 1.1 Council's Policy Framework provides for Council Policies to be reviewed within 12 months after a general election.
- 1.2 The Footpath Trading Policy (the Policy) was last adopted by Council in February 2021 and is now due for review.

2. CONSULTATION / COMMUNICATION**2.1 Internal**

- 2.1.1 Inclusion Project Officer
- 2.1.2 Manager Infrastructure Management
- 2.1.3 Assessment Manager
- 2.1.4 Team Leader Community Compliance
- 2.1.5 Senior Environmental Health Officer

2.2 External

- 2.2.1 Accessibility and Client Consultation, See Differently (Formerly Royal Society for the Blind)

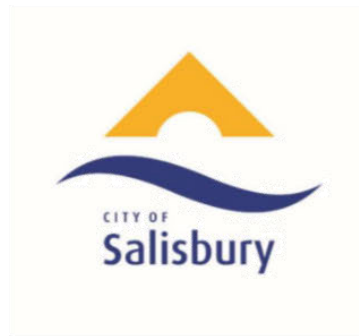
3. REPORT

- 3.1 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 held in its care for use for business purposes.
- 3.2 This policy relates to the use of footpaths for business purposes as an extension to the primary business in the adjacent premises. It aims to ensure the use of footpaths for business does not impede on providing a safe environment for people who move through the City, whilst enhancing business and vitality in shopping precincts.
- 3.3 Pedestrian safety is the primary purpose of footpaths, and Council's Footpath Trading Policy has been developed with this distinction in mind and to ensure access for people with all abilities to move along footpaths.
- 3.4 The policy has been reviewed and apart from editorial changes there has only been minor changes made after consultation and feedback from See Differently (Formerly Royal Society for the Blind), where they provided feedback on the following:
 - 3.4.1 *Access and Safety Requirements* - Aligning adjoining trading areas provides for an improved continuous path of travel for pedestrian safety and the following has been included in the policy:
 - Where there are adjoining premises trading, consideration will be given to aligning the trading areas to ensure that a continuous path of travel is maintained for pedestrian safety.
 - 3.4.2 *Accessible entrance* – maintaining a clear and straight line of access to the business improves pedestrian safety for person of all abilities and the approval process will consider the layout of all footpath trading items, and the following has been included in the policy:
 - All footpath trading shall maintain an accessible entrance that is free from obstacles and provides a logical path to the front door, and/or counter of the business, that enables safe passage to pedestrians entering the business and eliminates the need to weave between tables, planter boxes or artificial barrier if installed for shoreline trading.
 - 3.4.3 *Ropes or Chains* – were identified as providing a significant safety hazard to person with vision impairment and the following has been included in the general conditions of the policy to prohibit their use:
 - Other obstacles such as ropes or chains used with or without bollards to cordon off areas or identify paths of travel are not to be used due to potential safety issues associated with providing an accessible path of travel for persons that are vision impaired. All areas must be defined with approved solid barriers that comply with Barrier Screen requirements.
- 3.5 The above are the only additions to the policy and these amendments are considered to be important for providing safe footpath areas for all members of our community.

4. CONCLUSION / PROPOSAL

- 4.1 The Footpath Trading Policy has been reviewed with the minor changes proposed that reflect feedback and make minor editorial changes. No other changes of substance are considered necessary to ensure the Policy's continuing relevance.
- 4.2 The Footpath Trading Policy as contained within Attachment 1 is recommended to Council for its adoption.

This page intentionally left blank



City of Salisbury Values: Respectful, Accountable, Collaborative, Helpful

Footpath Trading Policy

Adopted by:	Council
Responsible Division:	Environmental Health and Community Compliance
First Issued/Adopted:	28 May 2007
Last Reviewed:	24 April 2023
Next Review Date:	February 2025

1. Purpose

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.

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.

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.

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*.

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.

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.

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)

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.

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.

2. Scope

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.

The Footpath Trading Policy covers:

- the parts of footpaths may be used for footpath trading or the display of goods or signs;
- permit requirements for the use of a Trading Activity Area;
- specific requirements for particular types of footpath trading activities and items;
- administration of the Policy, and
- enforcement of permits and the Footpath Trading Policy.

3. Legislative Requirements and Corporate Policy Context

- Local Government Act 1999
- Disability Discrimination Act 1992
- Australian Standard 1428 (Parts 1 and 2) Design for Access and Mobility.
- Planning, Development and Infrastructure Act 2016.
- Tobacco and E-Cigarette Products Act 1997
- Food Act 2001 and Food Regulations 2017
- Dog and Cat Management Act 1995

4. Interpretation/Definitions

The Act - means the Local Government Act 1999

Authorised Officer - a person appointed under Section 260(1) of the Local Government Act as an authorised officer.

Accessible car parks - a car park designated for parking by persons with a disability

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.

5. Policy Statements

Guiding Principles

- 5.1. 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*.
- 5.2. The Footpath trading activity must relate to and must make a positive contribution to the urban character and amenity of the area and surrounding areas.
- 5.3. Council strongly supports the long-term viability and sustainability of retail strips.
- 5.4. Council acknowledges the importance of footpath trading in enhancing the amenity, vitality and safety of the City's commercial areas.

Footpath Zones

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

Pedestrian Zone

- 5.6. 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 or related footpath trading activity may extend into this zone at any time, including items overhead below a height of 2.2m.

Trading Activity Zone

- 5.7. 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 activities may take place.
- 5.8. 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.
- 5.9. Council may place markers in the footpath or otherwise delineate the Trading Activity Zone.

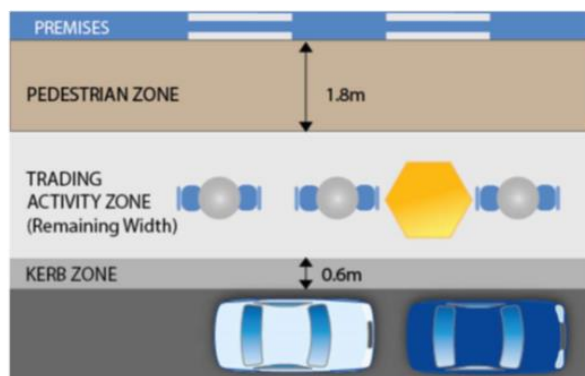
Kerbside Zone

- 5.10. 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.

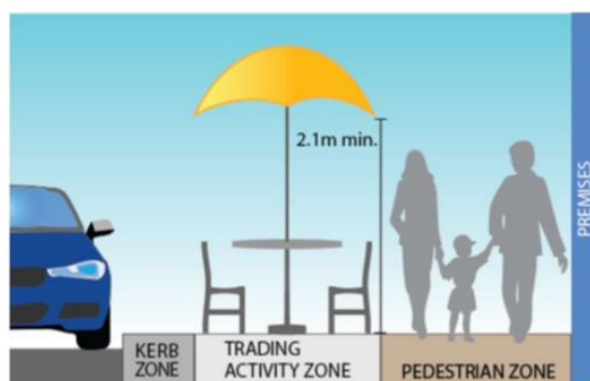
Figure 1 - Footpath Zones

Plan Views





Elevation View



Footpath Trading

Pedestrian Zone

- 5.11. 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

- 5.12. 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.
- 5.13. 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.

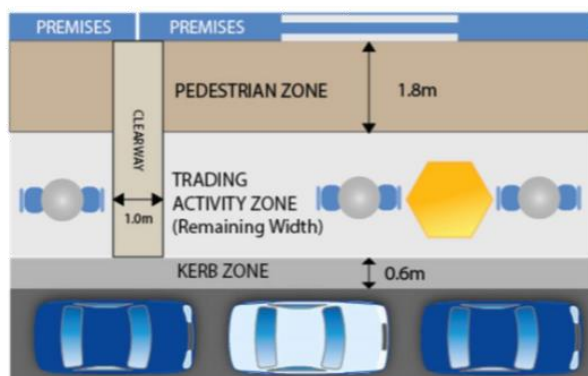
Encroaching

- 5.14. 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.
- 5.15. 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.
- 5.16. 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.
- 5.17. 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.
- 5.18. No items may be placed in either the Pedestrian Zone or the Kerbside Zone.

Access and Safety Requirements

- 5.19. 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.
- 5.20. Where there are adjoining premises trading, consideration will be given to aligning the trading areas to ensure that a continuous path of travel is maintained for pedestrian safety.

Figure 2 - Footpath Trading



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

Footpaths less than 3.0 metres wide

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

Shoreline Trading

- 5.23. 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.
- 5.24. 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.
- 5.25. 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.
- 5.26. No items may be placed in either the Pedestrian Zone or the Kerbside Zone.
- 5.27. 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.
- 5.28. 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.
- 5.29. 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.
- 5.30. 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.
- 5.31. 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.

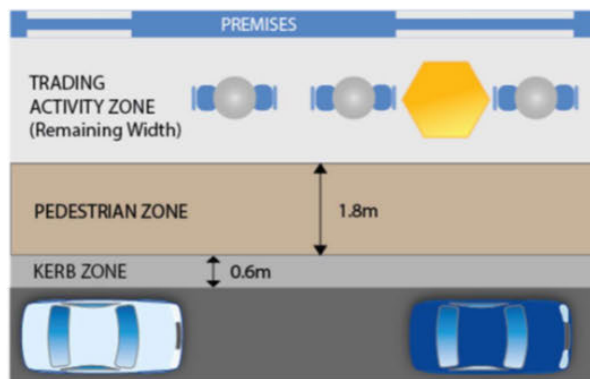
Access and Safety Requirements

- 5.32. 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.
- 5.33. 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).

5.34. 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.

Figure 3 Shoreline Trading

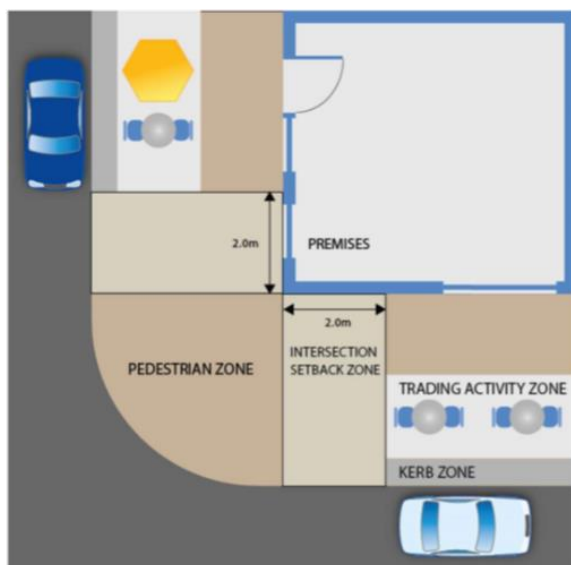


Note: Trading Activity Zone has varying width dependant on overall width of footpath area.

Corner Locations

- 5.35. 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.
- 5.36. If shoreline trading is permitted with proximity to a corner location then no items may be placed within 3.0m of an intersection
- 5.37. 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.

Figure 4 Corner Location



Accessible entrance

- 5.38. All footpath trading shall maintain an accessible entrance that is free from obstacles and provides a logical path to the front door and or counter of the business, that enables safe passage to pedestrians entering the business and eliminates the need to weave between tables, planter boxes or artificial barrier if installed for shoreline trading.

Safety Barriers

- 5.39. All applications for footpath trading will be subject to the provision of safety barriers as determined by Council's Traffic Management Section
- 5.40. Barriers must take the form of safety rated Energy Absorbing Bollards (EAB's) mounted near the kerb.

- 5.41. 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.
- 5.42. 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.
- 5.43. 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.
- 5.44. 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.
- 5.45. 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.

Street Traffic and Forklifts

- 5.46. All applicants that utilise forklifts or other vehicles, to unload or load on streets, roads or public carparks, or travel with forklifts on streets, roads or public carparks must include details of this activity in their application and include suitable travel plans for the forklift.
- 5.47. The traffic management plan to include roads/footpaths traversed, the weight of forklift, and approximate weight of goods.
- 5.48. All vehicles used on roads must be compliant with all relevant and applicable legislation including vehicle registrations as required.

Authorisations

- 5.49. 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
- 5.50. Authorisations are issued under *Section 221 of the Local Government Act 1999* and are subject to additional fees as specified on the application form and Council's fees and charges register.

Development Controls

- 5.51. In addition to requiring consent under the Local Government Act, the establishment of an outdoor dining area may require Development Approval (Development Consent and/or Building Consent) under the *Planning, Development and Infrastructure Act 2016*.
- 5.52. If the establishment of an outdoor dining area constitutes a change in land use, it requires Development Consent. The erection of some fixtures such as blinds, other awnings and screens may also constitute building work for the purposes of the *Planning, Development and Infrastructure Act 2016* and therefore will require approval.
- 5.53. Any application for a change in land use and/or building work will be considered in accordance with the Planning and Design Code and will address such matters as the provision of car parking, pedestrian access, and safety for patrons, pedestrians and motorists.
- 5.54. All applications are referred to Development Services for assessment.
- 5.55. Approvals for footpath trading and outdoor dining issued under alternative statutory authority including the *Planning, Development and Infrastructure Act 2016* may not require a permit under the provisions of *Section 222 of the Local Government Act 1999*.

Car Parking Fund Contributions

- 5.56. 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.
- 5.57. The car parking contribution fund fees are as specified on the application form and or Council's fees and charges register.

Liquor Licensing

- 5.58. 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/>)
- 5.59. Approval for the consumption of liquor will not be granted in the Permit without approval from Consumer and Business Services.

Noise

- 5.60. 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.

- 5.61. Subject to Development Approval 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.
- 5.62. 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.)
- 5.63. Noise nuisances can also be subject to the provisions of the *Local Nuisance and Litter Control Act 2016*.

Smoking

- 5.64. Smoking is banned in outdoor dining areas in South Australia under the *Tobacco and E-Cigarette Products Act 1997*. The 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.
- 5.65. 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.
- 5.66. 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.
- 5.67. Any smoking area must be physically separated from the dining area and not create a nuisance to pedestrians and other footpath trading areas.
- 5.68. 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.
- 5.69. 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

- 5.70. 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.

- 5.71. Dogs that are not assistance dogs:
- (a) must not be in the dining area without the permission of the premises owner, and
 - (b) must be under the effective control of a person who is present in the outside area, and
 - (c) must be restrained by a lead that is not more than 2 metres in length;

Public Infrastructure

- 5.72. 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.
- 5.73. 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.
- 5.74. 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

- 5.75. 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.
- 5.76. In an emergency or where maintenance works are considered to be urgent, sites may need to be cleared immediately.
- 5.77. Permit holders will be responsible for the movement of all items and any associated costs.

Evidence of a Permit

- 5.78. 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.
- 5.79. The permit may include the permit number, date of issue and a summary of the items permitted to be placed on the footpath.

Reinstatement

- 5.80. 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

- 5.81. General Conditions apply to all permits along with any identified special conditions relating to individual sites.
- 5.82. Refer to Attachment 1 of this Policy - General Conditions for Footpath Trading

Administration of the Policy

Applying for a Permit

- 5.83. 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. The application process is outlined below.

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, and any impacts from the use of forklifts
- 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.

3) 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.

4) 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

- 5.84. 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.
- 5.85. 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.
- 5.86. 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.
- 5.87. 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

- 5.88. Council authorised officers will check compliance with this Policy and the conditions of relevant permits on a regular basis.
- 5.89. 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 1999* as applicable.
- 5.90. 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

- 5.91. 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
- 5.92. 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.
- 5.93. The Permit holder must maintain this insurance for the duration of the permit.

6. Related Policies and Procedures

- 6.1. General Conditions for Footpath Trading Permits (Refer to Attachment 1)

7. Approval and Change History

Version	Approval Date	Approval By	Change
7	24 April 2023	Council	

8. Availability

- 8.1 The Policy is available to be downloaded, free of charge, from Council's website www.salisbury.sa.gov.au
- 8.2 The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

City of Salisbury Community Hub
34 Church Street, Salisbury SA 5108
Telephone: 84068222
Email: city@salisbury.sa.gov.au

9. Review

This Policy will be reviewed:

- If a new Policy - within 12 months of a Council election and thereafter as necessary; or
- The frequency dictated in legislation; or
- Earlier in the event of changes to legislation or related Policies and Procedures; or
- If deemed necessary by Council.

Further Information

For further information on this Policy please contact:

Responsible Officer: Manager Environmental Health and Community Compliance
Address: 34 Church Street, Salisbury SA 5108
Telephone: 8406 8222
Email: city@salisbury.sa.gov.au

Attachment 1: General Conditions for Footpath Trading Permits

1. Trading Activity Zone

- 1.1. The Trading Activity Zone will be in accordance with the approved plans as per application and permit issued by Council and may also be delineated on site with markers or indicators that are installed by Council.
- 1.2. All trading and approved activities are to occur within the approved Trading Activity Zone.
- 1.3. The number of consumers/customers present at any one time and use of items such as trolleys or baskets must be considered in the capacity of the trading activity zone, and any impediment on pedestrian access may affect the permit area and Trading Activity Zone.

2. Encroachments

- 2.1. 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.
- 2.2. 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.
- 2.3. Encroaching trading activity zone may result in permits for an area for more than one party and may be subject to special conditions.
- 2.4. 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.

3. Outdoor Dining

- 3.1. Any chairs, tables and ancillary items associated with outdoor dining:
 - 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.

3.2. The permit holder must:

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

- 3.3. 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.
- 3.4. Liquor is not to be sold, consumed or served within the Trading Activity Zone unless approved by Consumer and Business Services.
- 3.5. 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.
- 3.6. 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.
- 3.7. Separate cash registers, counter facilities or storage facilities are not permitted on the footpath.
- 3.8. 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.
- 3.9. 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 2001 and Food Safety Regulations 2017* and Council's Environmental Health Services Section.

4. Goods

4.1. 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 2001* and Council's Environmental Health Services Division.

4.2. 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.

4.3. 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.

5. Moveable Advertising Signs

- 5.1. 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:
- 5.2. One movable advertising sign only may be displayed for each street frontage of a business.
- 5.3. 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.
- 5.4. Inflatable signs; portable electric signs; illuminated, revolving, spinning or flashing signs; flags and banners are prohibited.
- 5.5. The display of a movable advertising sign is not permitted where a business is conducting any other commercial activity on the footpath.
- 6. Outdoor Speakers/Amplification equipment**
 - 6.1. Permission will be required to affix speakers to a building or veranda.
 - 6.2. 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.
 - 6.3. No sound amplification equipment or jukeboxes may be utilised in the footpath area.
- 7. Outdoor Heaters**
 - 7.1. Any outdoor heater must be associated with the use of the footpath for an outdoor eating facility; and may only be placed or fixed in the Trading Activity Zone; and must comply with all relevant safety standards
- 8. Umbrellas**
 - 8.1. Any umbrellas may only be placed in the Trading Activity Zone; and;
 - a) 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;
 - b) Any moveable item that protrudes into the pedestrian zone must not be below a height of 2200mm.
 - c) must be weighted and/or secured so as not to pose a safety hazard.
 - 8.2. At times when it is raining, water from umbrellas must not be discharged within the Pedestrian Zone.
 - 8.3. 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.

9. Barrier Screens

9.1. 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 veranda to the footpath.

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

9.3. 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;

9.4. 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.

- 9.5. 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.
- 9.6. High barrier screens may not be used for advertising other than the name of the business or unless otherwise approved.
- 9.7. 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.
- 9.8. Permanent screens will require a separate application for authorization under *Section 221 of the Local Government Act 1999* from Council's Property Services Section. Please refer to the Section on Authorisations for further information.
- 9.9. 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.

10. Full Length Awnings/Blinds

- 10.1. Full length awnings or blinds may only be placed in the Trading Activity Zone.
- 10.2. 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.

11. Planter Boxes

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

12. Ropes or Chains

- 12.1. Other obstacles such as ropes or chains used with or without bollards to cordon off areas or identify paths of travel are not to be used due to potential safety issues associated with providing an accessible path of travel for persons that are vision impaired.

- 12.2. All areas must be defined with approved solid barriers that comply with Barrier Screen requirements.

13. Cleaning

- 13.1. The permit holder is responsible for maintaining the trading area and associated footpath areas 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.
- 13.2. 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.
- 13.3. 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

14. Reinstatement

- 14.1. 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.

15. Street Traffic and Forklifts

- 15.1. All vehicle and or forklift activity on roads and footpaths associated with the footpath trading applicants must be in accordance with approvals and approved traffic management plan.
- 15.2. All vehicles and forklifts used on roads must be compliant with all relevant and applicable legislation including vehicle registrations as required.

16. Safety

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

17. Lighting

- 17.1. 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.
- 17.2. Additional lighting requirements will be provided by the permit holder and shall comply with any requirements or conditions by Council.
- 17.3. 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.

18. Other Legislative Compliance Requirements

- 18.1. 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.
- 18.2. It is the responsibility of the permit holder to ensure compliance with any other legislative provisions.

19. Special Conditions

- 19.1. As determined for individual sites and indicated on Permit

This page intentionally left blank



Footpath Trading Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	0879/2021
Approval Date:	28 May 2007	Commencement Date:	24 April 2023 22 March 2021
Review Date:	24 February 2023 February 2025	Internal Reference No.:	
Department:	City Development	Division:	Environmental Health and Safety Community Compliance
Function:	15 - Legal Provisions	Responsible Officer:	Manager Environmental Health and Safety Community Compliance

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.~~
- ~~4.1~~ The Footpath Trading Policy covers:
 - a. ~~the~~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.

- ~~4. Planning, Development and Infrastructure Act 2016 — any reference to the Planning, Development and Infrastructure Act 2016 includes the Development Act 1993.~~

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 or related footpath trading activity 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 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.

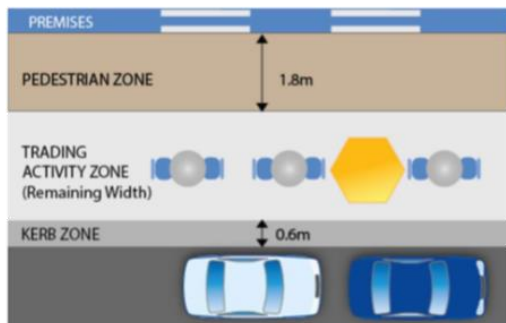
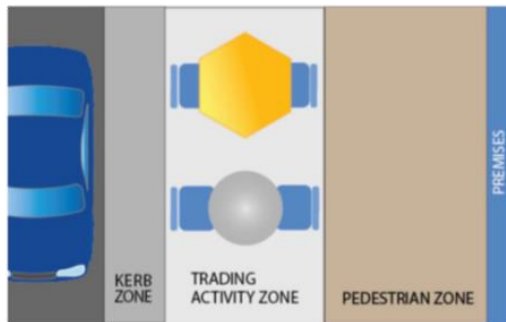
Council may place markers in the footpath or otherwise delineate the Trading Activity Zone.

3. Kerbside Zone

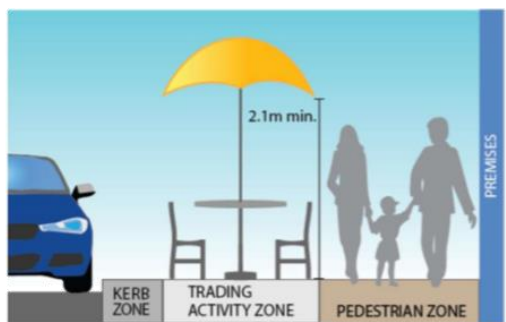
The kerbside zone is a buffer from the kerb to allow for access to and from parked vehicles. A minimum of 0.6m buffer as measured from the face of kerb to allow for access to and from parked vehicles including at loading zones. Where there is an accessible parking bay for people with a disability, the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

Figure 1 - Footpath Zones

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.

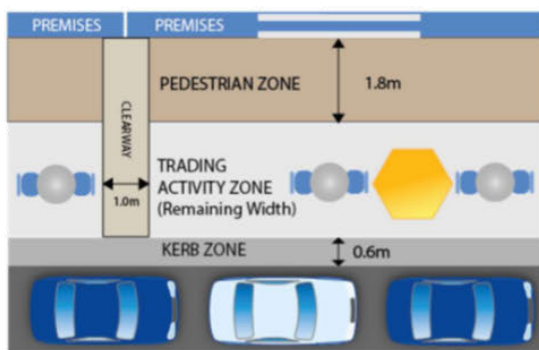
No items may be placed in either the Pedestrian Zone or the Kerbside Zone.

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

Figure 2. 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

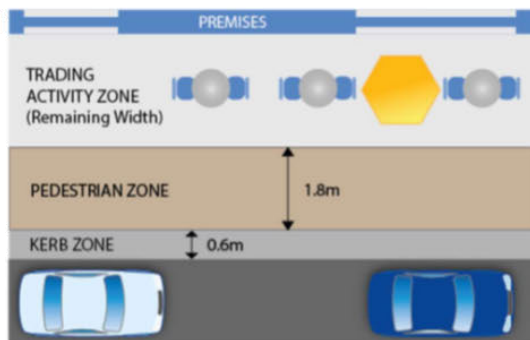
Pedestrian access along the pavement is to be maintained by the provision of at least 1.8 metres of clear pathway along the full street length of the defined area.

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:



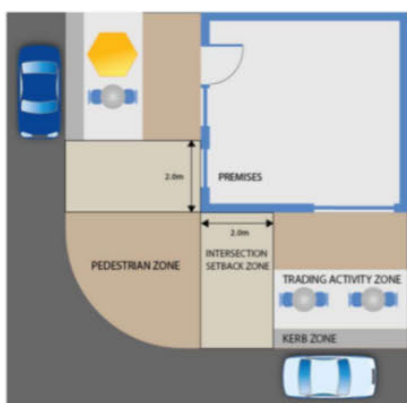
Note: Trading Activity Zone has varying width dependant on overall width of footpath area.

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**Accessible entrance**

All footpath trading shall maintain an accessible entrance that is free from obstacles and provides a logical path to the front door and or counter of the business, that enables safe passage to pedestrians entering the business and eliminates the need to weave between tables, planter boxes or artificial barrier if installed for shoreline trading.

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.

Street Traffic and Forklifts

All applicants that utilise forklifts or other vehicles, to unload or load on streets, roads or public car parks, or travel with forklifts on streets, roads or public car parks must include details of this activity in their application and include suitable travel plans for the forklift. The traffic management plan to include roads/footpaths traversed, the weight of forklift, and approximate weight of goods. All vehicles used on roads must be compliant with all relevant and applicable legislation including vehicle registrations as required.

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 (Development Consent and/or Building Consent) under the Planning, Development and Infrastructure Act 2016.

If the establishment of an outdoor dining area constitutes a change in land use, it requires Development Consent. The erection of some fixtures such as blinds, other awnings and screens may also constitute building work for the purposes of the Planning, Development and Infrastructure Act 2016 and therefore will require approval.

Any application for a change in land use and/or building work will be considered in accordance with the Planning and Design Code 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.

Approvals for footpath trading and outdoor dining issued under alternative statutory authority including the Planning, Development and Infrastructure Act 2016 may not require a permit under the provisions of Section 222 of the Local Government Act 1999.

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/>) <https://www.cbs.sa.gov.au>

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 Approval 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

Smoking is banned in outdoor dining areas in South Australia under the Tobacco and E-Cigarette Products Act 1997. The 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:

- (a) must not be in the dining area without the permission of the premises owner, and
- (b) must be under the effective control of a person who is present in the outside area, and
- (c) must be 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

General Conditions apply to all permits along with any identified special conditions relating to individual sites.

Refer to Attachment 1 of this Policy 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, and any impacts from the use of forklifts .
- 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.

3) 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.

4) 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.

4. Planning, Development and Infrastructure Act 2016.
5. Tobacco and E-Cigarette Products Act 1997
6. Food Act 2001 and Food Regulations 2017
7. Dog and Cat Management Act 1995

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

Prepared by

Version

Document Status

Issue Date

Footpath Trading Policy

~~John Darzanos~~Manager Environmental Health and Community Compliance~~0.17~~

Approved

24/04/202319

Attachment 1**General Conditions for Footpath Trading Permits****Trading Activity Zone**

- 1) The Trading Activity Zone will be in accordance with the approved plans as per application and permit issued by Council and may also be delineated on site with markers or indicators that are installed by Council.
- 2) All trading and approved activities are to occur within the approved Trading Activity Zone.
- 3) The number of consumers/customers present at any one time and use of items such as trolleys or baskets must be considered in the capacity of the trading activity zone, and any impediment on pedestrian access may affect the permit area and Trading Activity Zone.

Encroachments

- 4) 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.
- 5) 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.
- 6) Encroaching trading activity zone may result in permits for an area for more than one party and may be subject to special conditions.
- 7) 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 Dining

- 8) Any chairs, tables and ancillary items associated with outdoor dining:
 - 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.
- 9) The permit holder must:
 - a) maintain the footpath dining area in a clean and tidy condition at all times and immediately clean up any spills and litter;
 - b) ensure that patrons do not move tables and chairs or ancillary items from their positions and obstruct the Pedestrian Zone;
 - c) ensure that patrons do not allow pets, prams or any other personal items to obstruct the Pedestrian Zone;
 - d) ensure that food and beverages are not served to patrons standing on the footpath within the Pedestrian Zone;

- e) ensure that no noise or other disturbance creates a nuisance or causes detriment to the amenity of the neighbourhood; and
 - f) be responsible for reimbursing Council for any reinstatement works as a result of damage to footpaths or street fixtures and furniture.
- 10) 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.
- 11) Liquor is not to be sold, consumed or served within the Trading Activity Zone unless approved by Consumer and Business Services.
- 12) 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.
- 13) 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.
- 14) Separate cash registers, counter facilities or storage facilities are not permitted on the footpath.
- 15) 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.
- 16) 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

- 17) 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.
- 18) 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.

19) 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

20) 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:

21) One movable advertising sign only may be displayed for each street frontage of a business.

22) 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.

23) Inflatable signs; portable electric signs; illuminated, revolving, spinning or flashing signs; flags and banners are prohibited.

24) 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

25) Permission will be required to affix speakers to a building or veranda.

26) 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.

27) No sound amplification equipment or jukeboxes may be utilised in the footpath area.

Outdoor Heaters

28) 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

29) 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.

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

31) 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

32) 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.

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

34) 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;

35) 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.

36) 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.

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

38) 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.

- 39) 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.
- 40) 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.
- 41) 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

- 42) 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.

Ropes or Chains

- 43) Other obstacles such as ropes or chains used with or without bollards to cordon off areas or identify paths of travel are not to be used due to potential safety issues associated with providing an accessible path of travel for persons that are vision impaired.
- 44) All areas must be defined with approved solid barriers that comply with Barrier Screen requirements.

Cleaning

- 43)45) The permit holder is responsible for maintaining the trading area and associated footpath areas 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.
- 44)46) 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.
- 45)47) 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

Reinstatement

- 46)48) 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.

Street Traffic and Forklifts

- 47)49) All vehicle and or forklift activity on roads and footpaths associated with the footpath trading applicants must be in accordance with approvals and approved traffic management plan.
- 48)50) All vehicles and forklifts used on roads must be compliant with all relevant and applicable legislation including vehicle registrations as required.

Safety

~~49/51~~ 51 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

~~50/52~~ 52 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.

~~51/53~~ 53 Additional lighting requirements will be provided by the permit holder and shall comply with any requirements or conditions by Council.

~~52/54~~ 54 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

~~53/55~~ 55 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.

~~56~~ 56 It is the responsibility of the permit holder to ensure compliance with any other legislative provisions.

Special Conditions

~~57~~ 57 As determined for individual sites and indicated on Permit

This page intentionally left blank

ITEM	3.1.8
	GOVERNANCE AND COMPLIANCE COMMITTEE
DATE	17 April 2023
HEADING	Review of Prudential Management Policy
AUTHOR	Team Leader Corporate Governance, CEO and Governance
CITY PLAN LINKS	4.2 We deliver quality outcomes that meet the needs of our community
SUMMARY	This report presents the Prudential Management Policy to Council for consideration and adoption.

RECOMMENDATIONThat Council:

1. Adopts the revised Prudential Management Policy as set out in Attachment 1 to this report (Governance and Compliance Committee, 17 April 2023, Item No. 3.1.8).

ATTACHMENTS

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

1. Draft Prudential Management Policy

1. BACKGROUND

- 1.1 The Prudential Management Policy is a statutory policy required under section 48 of the *Local Government Act 1999* (the Act). In accordance with the Act, the policy prescribes when a prudential review is required when assessing a Council project.
- 1.2 Council's Policy Governance Framework provides for Council policies to be reviewed and adopted within 12 months of a Council election.

2. REPORT

- 2.1 The policy was last reviewed and considered by Council on 28 May 2018.
- 2.2 Minor changes have been made to the policy including to make consistent with the new policy template.
- 2.3 Additionally, the proposed changes include an adjustment to the value which triggers a prudential review to reflect the latest indexed figure as required by legislation.

3. CONCLUSION / PROPOSAL

- 3.1 The Prudential Management Policy as contained in Attachment 1 is recommended to Council for adoption.

This page intentionally left blank



City of Salisbury Values: Respectful, Accountable, Collaborative, Helpful

Prudential Management Policy

Adopted by:	Council
Responsible Division:	Governance
First Issued/Adopted:	27 July 2015
Last Reviewed:	28 May 2018

1. Purpose

The purpose of this policy is to ensure compliance with the City of Salisbury's legislative requirements and to outline the objectives of the City of Salisbury's prudential management practices and procedures for certain project activities.

When assessing projects, the City of Salisbury will ensure that it:

- (a) acts with due care, diligence and foresight; and
- (b) identifies and manages risks associated with a project; and
- (c) makes informed decisions; and
- (d) is accountable for the use of Council and other public resources,

Council is committed to a pro-active prudential management approach supported by the Enterprise Risk Management Framework when undertaking projects.

2. Scope

- 2.1. In accordance with section 48 (1) of the *Local Government Act 1999* (the Act), this policy applies to activities where the City of Salisbury:
 - (a) engages in any project:
 - (i) where the expected operating expenses calculated on an accrual basis of the Council over the ensuing five years is likely to exceed 20 per cent of the Council's

average annual operating expenses over the previous five financial years (as shown in the Council's financial statements); or

- (ii) where the expected capital cost of the project over the ensuing five years is likely to exceed \$4,000,000.00 (indexed, excluding GST); or
- (iii) where the Council considers that it is necessary or appropriate.

This policy is not intended to apply to activities in relation to:

- (a) road construction or maintenance; or
- (b) drainage works.

These works will be undertaken in accordance with Council's Procurement Policy.

Notes

- (a) The fact that a project is to be undertaken in stages does not limit the operation of this policy in relation to the project as a whole.
- (b) \$4,000,000.00 (indexed) means that amount is to be adjusted for the purposes of this policy on 1 January of each year, starting on 1 January 2011, by multiplying the amount by a proportion obtained by dividing the CPI for the September quarter of the immediately preceding year by the CPI for the September quarter, 2009.

As at January 2023, this indexed amount is \$5,489,861

3. Legislative Requirements and Corporate Policy Context

- 3.1. *Local Government Act 1999*
- 3.2. Enterprise Risk Management Framework
- 3.3. Capital Delivery Framework

4. Interpretation/Definitions

- 4.1. A **project** may be defined as a new and discrete undertaking or activity that would involve the expenditure of money, deployment of resources, incurring or assuming a liability, or accepting an asset.

This should not be interpreted to mean that all Council activities are "projects". Regular, ongoing deliveries of Council services are not "new and discrete" activities so therefore are not included within this definition. A project is a temporary endeavour with a defined beginning and end. The temporary nature of projects stands in contrast to business as usual (or operations) which are repetitive, ongoing functional activities to produce products or services.

- 4.2. **Prudential management** attempts to foresee what adverse financial consequences might arise from any project that a council is contemplating, and requires managing the project in such a manner as to capture the proposed benefits, while minimising, offsetting or otherwise taking account of the foreseeable financial risks.

5. Policy Principles

- 5.1. The decision-maker for any proposed project may be the Council, the Chief Executive or an officer of the Council to whom sub-delegation has been made (as reflected in the Council's Schedule of Delegations and Sub-delegations).
- 5.2. For projects that do not meet the criteria set out in section 48(1) of the Act, the decision maker should determine the level of due care and prudential management (based on the size, complexity and amount of financial or other risk).
- 5.3. The Capital Delivery Framework Business Case template may be used to address prudential issues for capital projects that do not meet the criteria set out in section 48(1) of the Act.
- 5.4. Where the City of Salisbury is undertaking a project activity for which this policy applies, the Council (elected members) must obtain and consider a report that addresses the prudential issues of the activity, including:
 - (a) the relationship between the project and relevant strategic management plans;
 - (b) the objectives of the development plan in the area where the project is to occur;
 - (c) the expected contribution of the project to the economic development of the local area, the impact that the project may have on businesses carried on in the proximity and, if appropriate, how the project should be established in a way that ensures fair competition in the market place;
 - (d) the level of consultation with the local community, including contact with persons who may be affected by the project and the representations that have been made by them, and the means by which the community can influence or contribute to the project or its outcomes;
 - (e) if the project is intended to produce revenue, revenue projections and potential financial risks;
 - (f) the recurrent and whole-of-life costs associated with the project including any costs arising out of proposed financial arrangements;
 - (g) the financial viability of the project, and the short and longer term estimated net effect of the project on the financial position of the Council;
 - (h) any risks associated with the project, and the steps that can be taken to manage, reduce or eliminate those risks (including by the provision of periodic reports to the chief executive officer and to the Council);
 - (i) the most appropriate mechanisms or arrangements for carrying out the project; and
 - (j) if the project involves the sale or disposition of land, the valuation of the land by a qualified valuer under the *Land Valuers Act 1994*.

A report required pursuant to this policy must be prepared by a person whom the Council reasonably believes to be qualified to address the prudential issues set out in this policy.

Engagement of the person to draft the report and facilitate its presentation to the Council is the responsibility of the project manager for the project the subject of the prudential report.

A report required pursuant to this policy must not be prepared by a person who has an interest in the relevant project (but may be prepared by a person who is an employee of the Council).

Note: refer to section 48, subsection 6 of the Act for the purpose of identifying whether a person has an interest a project.

6. Approval and History

Version	Approval Date	Approval By	Change
---------	---------------	-------------	--------

7. Availability

- 9.1 The Policy is available to be downloaded, free of charge, from Council's website www.salisbury.sa.gov.au
- 8.2 The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

City of Salisbury Community Hub
34 Church Street, Salisbury SA 5108
Telephone: 84068222
Email: city@salisbury.sa.gov.au

8. Review

This Policy will be reviewed within 12 months of a Council election and thereafter as necessary.

Further Information

For further information on this Policy please contact:

Responsible Officer: Manager Governance
Address: 34 Church Street, Salisbury SA 5108
Telephone: 8406 8222
Email: city@salisbury.sa.gov.au

ITEM	3.1.9
	GOVERNANCE AND COMPLIANCE COMMITTEE
DATE	17 April 2023
HEADING	Review of Council Decision Construction of Carpark at Tree Top Court
AUTHOR	Team Leader Corporate Governance, CEO and Governance
CITY PLAN LINKS	4.2 We deliver quality outcomes that meet the needs of our community
SUMMARY	On 19 October 2022, Council received an application to review certain decisions of the City of Salisbury (Council) in relation to the construction of a carpark at Treetop Court (Carpark proposal) in accordance with section 270 of the <i>Local Government Act 1999</i> . Administration engaged Kelledy Jones Lawyers to undertake the review. The internal review has been completed and the recommendations set out in this report.

RECOMMENDATIONThat Council:

1. Receives the Kelledy Jones internal review as set out in Attachment 1 (Governance and Compliance Committee, 17 April 2023, Item 3.1.9).
2. Approves putting the Treetop Court carpark project on hold and undertaking public consultation, on a discretionary basis and in accordance with its Public Consultation Policy, with the applicants, as well as any other impacted resident(s), prior to its re-consideration of the Carpark proposal.

ATTACHMENTS

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

1. Section 270 Report Construction of Carpark at Treetop Court
2. Section 270 Report Appendices

1. BACKGROUND

- 1.1 Council is committed to transparency in decision making, and to providing access to a fair and objective procedure for the internal review of decisions.
- 1.2 Council's Internal Review of Council Decisions Policy and Procedure (Policy and Procedure) has been adopted in accordance with Section 270 of the *Local Government Act 1999*. In accordance with the Policy and Procedure, an application for a review of a Council decision provides an opportunity to revisit a decision which has aggrieved an interested party.
- 1.3 By application dated 19 October 2022 (the Application), Mr Jon and Ms Sarah Scholten (the Applicants) requested a review of certain decisions of the City of Salisbury (the Council) pursuant to section 270 of the *Local Government Act 1999*.

- 1.4 The Applicants requested a review of the decision of Council made at its meeting of 26 April 2022, where Council resolved to adopt the recommendations of the Urban Services Committee, including item 4.1.5 *Boardwalk Carparking Investigation*.
- 1.5 Council's decision authorised construction of a carpark at Treetop Court, which would be adjacent to the Applicant's property, in an area presently comprising a 'natural landscape' situated along a gravel pedestrian path.

2. REPORT

- 2.1 The Chief Executive Officer engaged Kelledy Jones Lawyers as an external reviewer to undertake an independent review of the decisions made and prepare a report in accordance with Council's Policy and Procedure as set out in Attachment 1.
- 2.2 The report sets out:
 - 2.2.1 the background facts which have given rise to the application for review;
 - 2.2.2 a summary of relevant information obtained during the course of the review;
 - 2.2.3 findings in relation to the issues raised by the Applicant and the appropriateness of the decisions; and
 - 2.2.4 recommendations now available to the Council.

3. CONCLUSION / PROPOSAL

- 3.1 In accordance with the Policy and Procedure, matters to be referred to Council for consideration or further consideration include requests for review of a decision formally made by Council.
- 3.2 Council is asked to consider to put the Treetop Court Carpark Project on hold and undertake public consultation, on a discretionary basis and in accordance with its Public Consultation Policy, with the applicants, as well as any other impacted resident(s), prior to its re-consideration of the Carpark proposal.

CITY OF SALISBURY

CONSTRUCTION OF CARPARK AT TREE TOP COURT

SECTION 270 REVIEW

CITY OF SALISBURY

CONSTRUCTION OF CARPARK AT TREETOP COURT

Review pursuant to section 270 of the *Local Government Act 1999*

1. INTRODUCTION

- 1.1 By application dated 19 October 2022 (the **Application**), Mr Jon and Ms Sarah Scholten (the **Applicants**) requested a review of certain decisions of the City of Salisbury (the **Council**) pursuant to section 270 of the *Local Government Act 1999* (the **Act**) (**Appendix 1**).
- 1.2 By way of background to the Application, the Applicants are the registered proprietors of the property located at 4 Treetop Court, Paralowie (the **Property**). The Property is part of the Boardwalk at Greentree development, and is adjacent a natural landscape, which area, the Council has resolved to use for the construction of a twelve-bay carpark (the **Carpark**), to address parking overflow issues affecting residents of the nearby Jewel development.
- 1.3 A Google Maps depiction of this arrangement is **Appendix 2**.
- 1.4 At Agenda item 4.1.5 *Boardwalk Carparking Investigation* at its meeting of 19 April 2022, the Urban Services Committee (the **Committee**) of the Council resolved as follows (emphasis ours):

That Council:

1. *Approves the Administration organising for the reinstatement of parking signage within Chesser Row at a cost of \$1500.*
2. *Approves the Administration sending out an educational pamphlet to residents within the Boardwalk development that outlines the availability of car parking and a reminder on parking rules.*
3. ***Approves the construction of a twelve-bay car park in Treetop Court as per Attachment 5 – Option 3 Boardwalk Additional Parking (12) (Urban Services, 19th April 2022, Item No: 4.1.5.)***
4. ***Notes that expenditure of approximately \$50,000 will be required to undertake the construction of the twelve-carpark off Treetop Court, subject to detailed design and costing, and that this expenditure will be included as a budget bid for the financial year 2022/23.***
5. *That staff give further consideration to additional car parking opportunities in the Boardwalk Estate including along Greentree Boulevard.*

CARRIED

- 1.5 Following which, at Agenda item 4 at its meeting of 26 April 2022, the Council, as a governing body, resolved to adopt the recommendations of the Committee, including 4.1.5 *Boardwalk Carparking Investigation*.

- 1.6 The Applicant's submit they were only made aware of the same when on 19 September 2022, they received a letter from the Council, notifying of its intention to construct the 'overflow carpark' on Treetop Court, some five (5) months after the proposal had been adopted, by resolution of the Council.
- 1.7 Th Applicant's then corresponded with the Council, including the Mayor and the Deputy Mayor, before submitting the Application dated 19 October 2022, requesting a review of the decision made by the Council as a governing body.

2. THE APPLICANTS' COMPLAINT

- 2.1 By reference to the Application, the Applicant's complain the Council failed to:
 - 2.1.1 consult the Applicants prior to the Committee's consideration, and subsequent recommendation to the Council of Agenda item, 4.1.5 *Boardwalk Carparking Investigation*, at its meeting of 19 April 2022;
 - 2.1.2 consult the Applicant's prior to the Council's consideration of the Committee's recommendation, to construct the Carpark at Agenda item 4 at its meeting of 26 April 2022;
 - 2.1.3 notify them in a timely manner of this decision, of which they only became aware of its construction on 19 September 2022 on receipt of a 'flyer'; and
 - 2.1.4 consider the impact the Carpark would have on the streetscape of Treetop Court, and the amenity of their Property, noting that its construction is not consistent with the representations the Council and the developer were said to have made regarding the high-quality development and natural beauty of the area, and would likely result in an '*escalation of crime*' in the area.
- 2.2 The Applicants further submitted that:

Our property at 4 Treetop Court Paralowie was sold to us based on a quiet cul de sac with a natural landscape in front of our property as presented in the Master Plan, a safe environment for our growing family.

It was explained by both Connektup and Council there would never be "any development" on the natural landscape in front of the property as the soil was not suitable for building. It was communicated as "any development" not just housing development.

...

To reiterate, reading your "flyer" was the first we heard about the carpark construction (even though your decision was made in April with NO consultation with the resident's [sic] involved).
- 2.3 Taking the above into account, the Applicant contends the Council's consideration of the proposed Carpark was not an informed, transparent and accountable decision, and that the Council erred in not undertaking public consultation with the Applicants (and indeed, other residents) who may have been impacted by the decision.

- 2.4 Taken together, it can reasonably be construed the Applicants contend the Committee's consideration, and subsequent recommendation, to the Council to install the Carpark, and the Council's consideration of that recommendation, and subsequent resolution to install the Carpark, did not take into account all relevant considerations, such that it was not acting as a representative, informed and responsible decision maker in the interests of its community.
- 2.5 In which case, it could be said the decisions are contrary to sections 6 and 8 of the Act.
- 2.6 We further note the Applicant's submit the decision(s) have been made as a result of poor, or flawed, planning decisions, particularly with respect to the requirement to provide parking (or apply sufficient parking controls) for the dwellings in the Jewel residential development.
- 2.7 Whilst the Council's *Internal Review of Council Decisions Policy and Procedure (Appendix 3)* provides at clause 2.6 that it will not apply to decisions made by the Council in circumstances where an '*alternative statutory process for a review or appeal exists in other legislation*' and that decisions made under the *Development Act 1993* (which reference must now also be read to also include the *Planning, Development and Infrastructure Act 2016*), that is ultimately not the end of the Council's consideration of the matter.
- 2.8 In the report published by the Ombudsman in November 2016, *Right of Review*, pertaining to the operation of section 270 of the Act, the Ombudsman made several recommendations, including that council policies and procedures established under section 270 of the Act be amended to reflect that whether a review is to be conducted is to be assessed on the merits of the individual application.
- 2.9 That is, it may be appropriate in some circumstances to undertake a review of planning matters, based on '*the merits*' of the matter.
- 2.10 However, on our review of the information provided under this review, it is our position that given the passage of time since the relevant planning decisions were made, which included the issuing of Development Authorisations for dwellings in the Jewel residential development, that the planning decisions in this matter can, and should be, appropriately excluded from the review.
- 2.11 In addition, irrespective of the outcome of any review under section 270 of the planning decisions, the Council (through its Council Assessment Panel and Assessment Manager) is *functus officio*, it has completed its statutory function some time back, the houses have been constructed, and it is unable to re-visit its decisions in this respect.
- 2.12 In which case, the scope of the review can, and has been, appropriately limited to the public consultation considerations with respect to the proposed Carpark.

3. THE REVIEW PROCESS

- 3.1 The decision, subject of the Application, was in the first instance a decision to make a recommendation to the Council, made by the Committee, and then a decision of the Council, as a governing body, to resolve to adopt that recommendation.

- 3.2 In which case, the Chief Executive Officer of the Council engaged Kelledy Jones Lawyers as external reviewer to undertake an independent review of the decisions made, and to prepare this Report.
- 3.3 The review has been conducted in accordance with the Council's *Internal Review of Council Decisions Policy and Procedure* (the **Procedure**), adopted by the Council in accordance with its obligations under section 270 of the Act (**Appendix 3**).
- 3.4 It is noted the Procedure provides, in most cases, the Council expects to finalise a request for review within 28 days. However, there may be some circumstances where there are delays. For example, this might include where an external provider has been engaged, as well as in more complex matters. To this end, we note further information was requested and received on this review, and taken into account on its finalisation.
- 3.5 We also note that whilst a Draft Report was initially prepared on 16 December 2022, further information was required from key staff at the Council regarding the progression of the works, subject of the decision, who were on leave over the Christmas break.
- 3.6 An update was provided by email of Monday 19 December 2022 to the Applicants to this effect.
- 3.7 The further information required on the review was received on Friday 27 January 2023, following which, the Draft Report was finalised.
- 3.8 The purpose of the review is to examine the process followed by the Council in arriving at the decisions of concern to the Applicants, for the purposes of determining whether those decisions were:
 - 3.8.1 reasonable decisions to make in the circumstances;
 - 3.8.2 open to be made on the facts before the Committee, and the Council;
 - 3.8.3 made in the public interest; and
 - 3.8.4 not based on a flawed decision-making process.
- 3.9 In giving effect to the requirements to afford procedural fairness to the Applicants, a letter was sent by email of 28 October 2022, extending an invitation to provide any further information, or submission, to be taken into account in the review (**Appendix 4**).
- 3.10 By responding email of 4 November 2022, the Applicant's provided further information to be taken into account on the review (**Appendix 5**), noting in particular the Property:

was sold based on, a quiet cul de sac with new natural vegetation in front of the property that would remain untouched and a safe environment for our growing family.
- 3.11 The Applicants also submitted that the Carpark would '*increase the risk of crime*' in the area, such that it would place their family at risk, stating:

Carparks are notorious for crime, a hangout for hoons, vandals, thieves and other antisocial behaviour. There is no sufficient lighting and criminals or their intent can't be seen.

The CCTV in our Treetop Court and Boardwalk Drive was ineffective when our home was under construction. We had numerous property thefts including an installed air conditioning unit which was severed from the wall and stolen from the side of our home. The weight of this unit would have required more than one person and a vehicle; however no footage could be provided. The Salisbury Council did supply us with a security fence until the build was complete.

- 3.12 For the avoidance of doubt, the submissions contained in the Application, as well as the subsequent information shared by the Applicant's when invited by this firm to provide an additional response, have been carefully and thoroughly considered.
- 3.13 Having considered all of the relevant information available to the Council at the time the decisions were made, as well as the further information provided as part of the review, a Draft Report was prepared for the consideration of the Council, the objective of which, is to assist the Council in making a determination to finalise the review process.
- 3.14 In affording the Applicant's procedural fairness as part of the review, a copy of the Draft Report was provided by email of Wednesday 22 February 2023, with an invitation to provide any further submission on the preliminary findings, and foreshadowed recommendations.
- 3.15 By email of Wednesday 1 March 2023, the Applicant's confirmed there was no further information, or submission, to be made on the preliminary findings and foreshadowed recommendations, and this Final Report was prepared.
- 3.16 Accordingly, this Final Report sets out:
 - 3.16.1 the background facts which have given rise to the application for review;
 - 3.16.2 a summary of relevant information obtained during the course of the review;
 - 3.16.3 findings in relation to the issues raised by the Applicant and the appropriateness of the decisions; and
 - 3.16.4 recommendations now available to the Council.
- 3.17 The standard of proof that has been applied in this review is on the balance of probabilities. In determining whether that standard has been met, in accordance with the High Court decision in *Briginshaw v Briginshaw* (1938) 60 CLR 336, we have considered the nature of the allegations made and the consequence(s) if they were to be upheld.
- 3.18 In *Briginshaw*, Dixon J explained [361-362]:

The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the

6

question whether the issue has been proved. In such matters "reasonable satisfaction" should not be produced by inexact proofs, indefinite testimony, or indirect inferences. Having set out the basis of the requests, it is appropriate to outline the statutory framework against which the application is to be considered and determined.

3.19 For the avoidance of doubt, reference to 'the Council' in this report is a comprehensive term and is to be read, as necessary, as a reference to employees of the Council.

3.20 It is against the above that we now set out the relevant background which informs this review.

4. BACKGROUND

4.1 At the Council Meeting of 28 February 2022, Cr Grenfell moved a motion without notice, which was accepted by the Mayor, and subsequently carried.

4.2 The resolution of the Council in that respect read as follows:

SPDSC-OB1 Motion Without Notice: Boardwalk at Greentree

Moved Cr K Grenfell

Seconded Cr J Woodman

That Council:

- 1. Approves the removal of the existing "Boardwalk at Greentree" promotional signage located on the corner of Kings Road and Greentree Boulevard.*
- 2. Approves the erection of a permanent entrance statement on Council owned land situated on the corner of Kings Road and Greentree Boulevard, (Certificate of Title 6132 Folio 205).*
- 3. Approves the cost of the entrance statement be funded from proceeds of the development up to \$20,000.*
- 4. Notes that existing residents have raised concerns regarding car parking within the "Boardwalk at Greentree" development.*
- 5. Approves the administration undertake investigations to determine a solution to the carparking concerns raised by residents and provide a report back to Urban Services Committee regarding possible outcomes and costs by April 2022.**

CARRIED

1253/2022

4.3 We note that given the substantive nature of the motion without notice, that it was open, under regulation 12(6) of the *Local Government (Procedures at Meetings) Regulations 2013* (the **Meeting Regulations**), for the Mayor to refuse to accept the motion without notice if, after taking into account the Guiding Principles, she considered that the motion should be dealt with by way of a written notice of motion.

- 4.4 The Guiding Principles, at regulation 4 of the Meeting Regulations, provide, amongst other things, that meeting procedures should be fair and contribute to open, transparent and informed decision-making.
- 4.5 However, we do note that the resultant outcome of the motion, as carried, was simply that the Council 'approved' the administration undertake investigations to determine a solution to carparking concerns raised by residents and provide a report back to the Committee by April 2022.
- 4.6 In which case, we **do not** find there was any procedural error in the Member moving the motion without notice, nor its acceptance of that same, at that Council Meeting of 28 February 2022.
- 4.7 We also note there was no requirement in the subsequent resolution for the administration to undertake discretionary public consultation with respect to those 'investigations' in accordance with its Public Consultation Policy (**Appendix 6**), and this was not a matter that attracted a statutory requirement under the Act to consult on.
- 4.8 As a result, in giving effect to the resolution of the Council, administration caused an investigation to be undertaken, to identify any areas that could be used to expand parking availability around the Jewel residential development.
- 4.9 A report was prepared for Agenda item 4.1.5 for the Committee meeting of 19 April 2022.
- 4.10 That report identified a number of complaints had been received regarding parking in and around the Jewel residential development, which predominantly appeared to relate to breaches of parking rules, such as parking across driveways and yellow lines and overhanging onto verges and footpaths. Some of those complaints were also identified as relating to a lack of parking, which appeared to be concentrated around Chesser Row and Wildwood Street, adjacent the Jewel development.
- 4.11 The report also stated, as had been advised to the Applicant's prior by Council staff, that since the completion of the project, anecdotal evidence suggested some residents were not using their garage for parking, but rather for storage, while some had two (2) cars per household and utilised on-street parking on a regular basis. As there are 30 units, this was stated it could at times create a large overflow of cars from the development.
- 4.12 A number of options were identified in the report, to address the parking issues, and at paragraph 5 *CONCLUSION / NEXT STEPS*, it was specified as follows (emphasis ours):
- 5.1 *Investigations have indicated that there is ample parking throughout the Boardwalk at the Greentree master planned development although it is not located immediately adjacent to those dwellings with one carparking space.*
- 5.2 *To reinforce appropriate parking locations, it is recommended that parking signage be reinstated in Chesser Row, adjacent the Jewel development.*

5.3 *It is proposed that an educational pamphlet be distributed to residents within the Boardwalk development regarding available parking areas and that the parking situation be monitored for the next six months following installation of signage and distribution of the pamphlet.*

5.4 ***In addition to providing additional carparking for local residents, the construction of a new carpark on Treetop Court will also improve accessibility to the walking trails along the Little Para River.***

4.13 Following the Committee's receipt and consideration of the report at Agenda item 4.1.5 at its meeting of 19 April 2022, it resolved to recommend to the Council as follows (emphasis ours):

4.1.5 Boardwalk Carparking Investigation

Moved Cr C Buchanan

Seconded Mayor G Aldridge

That Council:

1. *Approves the Administration organising for the reinstatement of parking signage within Chesser Row at a cost of \$1500.*
2. *Approves the Administration sending out an educational pamphlet to residents within the Boardwalk development that outlines the availability of car parking and a reminder on parking rules.*
3. ***Approves the construction of a twelve-bay car park in Treetop Court as per Attachment 5 – Option 3 Boardwalk Additional Parking (12) (Urban Services, 19th April 2022, Item No: 4.1.5.)***
4. *Notes that expenditure of approximately \$50,000 will be required to undertake the construction of the twelve-carpark off Treetop Court, subject to detailed design and costing, and that this expenditure will be included as a budget bid for the financial year 2022/23.*
5. *That staff give further consideration to additional car parking opportunities in the Boardwalk Estate including along Greentree Boulevard.*

CARRIED

4.14 A copy of the Agenda Report for item 4.1.5 Boardwalk Carparking Investigation and the relevant pages of the Minutes of the Committee Meeting of 19 April 2022 are **Appendix 7**.

4.15 Subsequently, at Agenda item 4.1.5 *Urban Services Committee* at its Meeting of 26 April 2022, the Council, considered the Minutes of the Committee meeting, and its recommendation with respect to this item, and resolved as follows (emphasis ours):

4.1.5 Boardwalk Carparking Investigation

Moved Cr C Buchanan

Seconded Cr D Proleta

That Council:

1. Approves the Administration organising for the reinstatement of parking signage within Chesser Row at a cost of \$1500.
2. Approves the Administration sending out an educational pamphlet to residents within the Boardwalk development that outlines the availability of car parking and a reminder on parking rules.
3. **Approves the construction of a twelve-bay car park in Treetop Court as per Attachment 5 – Option 3 Boardwalk Additional Parking (12) (Urban Services, 19th April 2022, Item No: 4.1.5.)**
4. **Notes that expenditure of approximately \$50,000 will be required to undertake the construction of the twelve-carpark off Treetop Court, subject to detailed design and costing, and that this expenditure will be included as a budget bid for the financial year 2022/23.**
5. That staff give further consideration to additional car parking opportunities in the Boardwalk Estate including along Greentree Boulevard.

CARRIED

1316/2022

- 4.16 A copy of the Agenda Report for item 4.1.5 *Boardwalk Carparking Investigation* and the relevant pages of the Minutes of the Council Meeting of 26 April 2022 are **Appendix 8**.
- 4.17 It is again to be noted there had been no intervening discretionary public consultation process, nor did the Committee's resolution recommend the same.
- 4.18 However, and again, this was not a decision of the Council that attracted a statutory requirement for consultation under the Act.
- 4.19 Following which, we understand the Applicants were made aware of the proposed carpark, by way of flyer distributed by the Council, and received by them on 19 September 2022.
- 4.20 We understand this 'flyer' was prepared to give effect to paragraph 2 of the Council resolution of 26 April 2022 (1316/2022), to distribute '*an educational pamphlet to residents within the Boardwalk development that outlines the availability of car parking and a reminder on parking rules.*'
- 4.21 Subsequently, on 20 September 2022, the Applicants contacted the Council, and raised their disappointment, and opposition, to the decision. The Applicants also submitted a complaint to the Mayor and to Deputy Mayor on 6 and 10 October 2022, respectively (**Appendix 5**).

10

4.22 On 18 October 2022, the Mayor replied by letter, the content of which was said by the Applicants to be '*disconcerting*' and not addressing any of the concerns raised in their original email.

4.23 The following day, the Deputy Mayor replied, stating, amongst other things, that he had **believed the Applicants had been consulted with**, prior to the same being made.

5. FINDINGS

5.1 By way of the Application dated 19 October 2022 (**Appendix 1**), the Applicants subsequently requested a review of the Council's decision to authorise construction of the Carpark, which would be adjacent the Property, in an area presently comprising a 'natural landscape' situated along a gravel pedestrian path.

5.2 The Council is responsible for the care, control and management of public roads within its area, other than arterial roads under the care, control and management of the Department for Infrastructure and Transport.

5.3 The footpath where the Carpark is proposed to be constructed forms part of a road as defined under section 4 of the Act, it is a Council road.

5.4 As above, there is no statutory requirement under the Act for the Council to undertake community consultation in relation to any proposal to regulate car parking arrangements on its road, or, in this instance, amend a footpath area to construct car parks.

5.5 There was, likewise no recommendation of the Committee, or resolution of the Council, requiring Administration to undertake a consultation process on the proposal.

5.6 Notwithstanding, in the circumstances, the Council's decision to construct the Carpark involves, on any objective and reasonable consideration, at the very least, a reduction in the amenity and outlook from the Applicant's Property (and perhaps other residents), as well as an increase in traffic movements directly in front of the same.

5.7 In which case, the principles of Administrative Law recognise such a decision will impact on the rights, interests or legitimate expectations of the Applicant's, and prior to making a decision, the Applicant's should be afforded a '*right to be heard*'.

5.8 In the circumstances of this matter, that '*right to be heard*' is by way of consultation with the Applicant's (and any other similarly impacted residents), prior to the Council making a decision on the Carpark.

5.9 We also note that at least one Elected Member, the Deputy Mayor, was of the view that the Applicants **had been** consulted with.

5.10 In which case, it is not clear if the Council's decision may have been different, had Members been aware the Applicants (and others) had not been consulted with, prior to the Council's receipt and consideration of the proposed Carpark.

5.11 We further note the Council's resolution at its Meeting of 26 April 2022 provides as follows:

3. Approves the construction of a twelve-bay car park in Treetop Court as per Attachment 5 – Option 3 Boardwalk Additional Parking (12) (Urban Services, 19th April 2022, Item No: 4.1.5.)

4. Notes that **expenditure of approximately \$50,000** will be required to undertake the construction of the twelve-carpark off Treetop Court, **subject to detailed design and costing, and that this expenditure will be included as a budget bid for the financial year 2022/23.**

5.12 That is, the Council's decision to construct the Carpark is contingent on 'detailed design and costing', and the expenditure will be subject to budgeted funds being made available in the 2022/23 year.

5.13 Whilst we understand that the 'expenditure of approximately \$50,000' has been included in the 2023/22 FY Budget, the project has only progressed, to date, to the preliminary design stage, and preparation of budget estimates.

6. RECOMMENDATIONS

6.1 Taking the above into account:

6.1.1 **we find** the Council did not have a statutory obligation to undertake public consultation with regards to the Carpark proposal;

6.1.2 however, **we find** any concluded decision to construct the Carpark will, on any reasonable and objective consideration, result in a reduction in the amenity and outlook from the Applicant's Property, as well as an increase in traffic movements directly in front of the same;

6.1.3 in which case, the Applicants (and any other impacted resident(s)) ought to have been consulted, prior to the Council considering, and determining this matter, with at least one Member erroneously considering this had occurred, prior to the Council's decision on the same.

6.2 However, noting the Carpark is still in the preliminary design and costing stage, we recommend as follows:

6.2.1 that the Council receives and notes this Report;

6.2.2 that the Council consider, prior to progressing the Carpark beyond the preliminary design and costing stage, that it will undertake public consultation, on a discretionary basis and in accordance with its *Public Consultation Policy*, with the Applicants, as well as any other impacted resident(s), prior to its re-consideration of the Carpark proposal.

Kelley Jones

6.3 Irrespective of the manner in which the Council resolves to determine this matter, it is acknowledged that the Applicants have recourse to the Ombudsman if they remain dissatisfied.

6.4 This concludes our review of the matter.

Yours sincerely
KELLEDY JONES LAWYERS



TRACY RIDDLE
Direct Line: 08 8113 7106
Mobile: 0431 867 523
Email: triddle@kellyjones.com.au

APPENDICES

APPENDIX 1

From: Mark and Lee Kirtland
Sent: Wed, 19 Oct 2022 21:37:59 +1030
To: City of Salisbury
Subject: Internal Review Request
Attachments: Application for Internal Review of a Council Decision.pdf

Dear Chief Executive Officer,

Please see the attached Application for Internal Review of a Council Decision.

Please call myself Lee Kirtland for Credit Card payment on [REDACTED]

Kind regards

Lee Kirtland

Document Set ID: 5836822
Version: 1, Version Date: 20/10/2022



Application for Internal Review of a Council Decision

Details of Applicant:

Name: Jon and Sarah Scholten Title: (Mr/s etc) Mr + Mrs
 Address: 4 Treetop Court Parabowie
 Telephone Number(s) [REDACTED] Date of Application: 19/10/22

Application Received:

Application Receipt Number

Fees and Charges

An application fee of \$20 must be submitted with the completed application form.

Is the application fee attached? ☐ Yes ☐ No

Application fee is in the form of ☐ Cheque ☐ Cash ☐ Money Order ☒ Credit Card

(Do not send cash through the mail)

If you wish to pay your application fee via credit card, Council will contact the applicant via telephone to process payment on receipt of the application.

This application will not be valid until the application fee has been received by the Council.

Details of Application:

I request a review of the following decision made by Council:

See attached

My reason for requesting a review of the decision is because:

See attached

Applicant's Signature: [Signature] Date: 19/10/22

19th October 2022

I request a review of the following decision made by Council:

Dispute - Construction of a Carpark on Treetop Court Paralowie

We formally dispute the City of Salisbury Council's decision to construct a carpark on Treetop Court Paralowie SA 5108 and request the council overturns their decision.

We find in the Minutes of the Urban Services Committee Meeting 19/4/22, the Salisbury Councils intention to utilise "the natural landscape in front of our home" to construct a twelve-bay carpark was approved. This went ahead without our prior knowledge or consultation and not acceptable.

As members of the community, the Council's decision will impact our family with adverse affects and we feel our grievances have not been considered in any capacity.

Our family was first made aware of the council's intention to construct a carpark on the 19th September 2022 when we received a flyer outlining a residential "overflow carpark" on Treetop Court. This was five months after the Treetop Court Carpark was approved by Council.

On the 20th September 2022, we contacted the Council and spoke to a Council Representative at some length and expressed our disappointment and strongly opposed the Councils decision. We were told to submit a complaint to the council in writing.

Therefore, our family submitted complaint emails to the City of Salisbury Council, cc'd to Mayor, Gillian Aldridge and Deputy Mayor, Chad Buchanan on the 6th and 10th October 2022.

On the 18th October 2022, the Mayor, Gillian Aldridge emailed a response letter which was generic, very disconcerting and did not address any of our concerns. In the letter, the Mayor assured the wellbeing of all residents, however our family's welfare, health, happiness and safety are compromised. We are unsure how our wellbeing can be assured. Thus, we have initiated the Application for Internal Review as outlined in her letter.

On the 19th October 2022, the Deputy Mayor, Chad Buchannan responded by email, he apologised as he believed there was consultation with our family before the decision was made, this was definitely not the case.

The Deputy Mayor, the Council Representative and the Flyer all emphasized that the use of the overflow parking on Treetop Court was for "Residents". The Council Representative expressed that in the planning, the specific housing in Chesser Lane only allowed for .5 of carpark space for each resident. She also highlighted in our phone conversation that

residents in Chesser Lane were utilising their garages as storage space and not a parking space. These decisions should not compromise our family.

It is noted in the flyer, Council expected that first home buyers generally had a lower level of car ownership, which proved to be incorrect. Therefore, our family now suffers the rath of a gross misjudgement of insufficient carparking spaces which should have been addressed in the planning phase of Boardwalk on Greentree.

We find from the Mayors Letter Response, the carpark will be open to the public, for those outside the development to utilise the amenity of the trail, as well as additional carparks for the residents. Therefore, twelve car parks for the public and residents directly in front of our home, is not acceptable.

Our reason for requesting a review of the decision is because:

Our property at 4 Treetop Court Paralowie was sold to us based on a quiet cul de sac with a natural landscape in front of our property as presented in the Master Plan, a safe environment for our growing family.

It was explained by both Connektup and Council there would never be **"any development"** on the natural landscape in front of the property as the soil was not suitable for building. It was communicated as **"any development"** not just housing development.

When we purchased the property, we received a congratulations email which contained

City of Salisbury are committed to delivering a very high-quality development and to enhance the natural beauty of the area through addition of significant investment toward beautification through planting, walking trails and a boardwalk across the natural wetland. Boardwalk will be a great place to live, offer an enviable lifestyle and be a safe community.

A carpark in front of our home is not enviable, it is not beautification or enhancing natural beauty and it will not be a safe street/community. Personally, to contemplate the construction of a carpark, I feel both the City of Salisbury Council and Connektup have provided misleading information to our family. The prospect of a carpark will devalue our home significantly and the traffic will not be safe for our children, an area that they presently have the freedom to enjoy.

However, on occasions over the years, the small "turn out" at the end of the Treetop Court has attracted crime. If you construct a car park in Treetop Court, the amount of crime will be unfathomable. We have reported to police the unsavoury characters loitering at night in what they thought was a perfect spot. I can only imagine the escalation of crime this car park will create. We will also be subject to carpark lighting, revving of cars and burnouts. The area on Greentree Boulevard in front of Kings Way is a classic example of this unsavoury behaviour, we can only imagine the destruction in our secluded cul-de-sac

Car doors slamming (people work all hours of the day/night) it will never be a quiet street anymore with nonstop cars coming and going! This is a very secluded area at present and if a carpark is constructed we fear for our safety and our children's lives. However, as the Mayor states, she will assure our wellbeing and we will hold her to her comment.

To reiterate, reading your "flyer" was the first we heard about the carpark construction (even though your decision was made in April with NO consultation with the resident's involved) I have been so unsettled and depressed knowing that this has been forced upon us. A flyer sent out five months after the fact is just extremely disappointing and quite frankly, bad manners. What ever happened to an opportunity to object in council before the decision was made?

My husband and I became the "Face" of the Boardwalk at Greentree promotion. We appeared in YouTube videos and photo shoots on the website, social media and Newsletters. The promotion was something we were passionate about and looked forward to building and moving into the area.

I was on the Spin Dragon ride that collapsed at the Royal Adelaide Show on the 2nd September 2000 which plunged 8 metres to the ground. I had both physical and psychological injuries and joined the Class Action with Duncan Basheer and Hannon. I received settlement compensation for my injuries and suffering fourteen years after the accident.

Our home at 4 Treetop Court Paralowie was purchased with my compensation money. We were more than happy with our decision to provide a safe haven for our family, with a beautiful scenic outlook.

Our home which included my compensation will now be devalued by a carpark and will be unsafe for our children. I'm hoping you understand the mental anguish this is causing.

The Mayor stated in her letter "Please be assured that the City of Salisbury Council is committed to maintaining the natural landscape of the Boardwalk Development and the wellbeing of all residents" our wellbeing is now shattered.

We do hope you will review the decision to construct a carpark in front of our home and we look forward to your response.

We will have no hesitation to escalate this matter to the Ombudsman/Court and the Media should the carpark go ahead.

Kelley Jones

APPENDIX 2

Kelley Jones

4 Treetop Court, Paralowie SA 5108

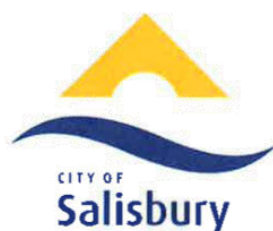


Proposed Carpark



Kelley Jones

APPENDIX 3



City of Salisbury Values: Respectful, Accountable, Collaborative, Helpful

Internal Review of Council Decisions Policy and Procedure

Adopted by:	Council
Responsible Division:	CEO and Governance
First Issued/Adopted:	20 December 2021
Last Reviewed:	November 2021
Next Review Date:	November 2023

1. Introduction

- 1.1 The Council will review certain types of decisions in accordance with this procedure. This document sets out:
 - a) the decisions which are subject to review;
 - b) the method of applying for a review;
 - c) the review process; and
 - d) record keeping requirements.
- 1.2 Council, its committees, staff and persons acting on behalf of Council make decisions every day which impact on members of the community. It is imperative that these decisions are fair, objective and subject to review.
- 1.3 Council is committed to open, responsive and accountable government. This includes providing processes by which citizens adversely affected by a decision of Council can have their grievances considered.
- 1.4 This procedure will be widely accessible to ensure that customers are fully aware of their right to request the review of a decision and the process that

will be followed. Everyone will be treated equally, in accordance with good administrative practice.

Council's procedures are designed to ensure that:

Every person has the opportunity to make an application for review of a decision covered by this procedure

- a) An unbiased review is undertaken
- b) Outcomes of a review are based on sound evidence
- c) Applicants receive information about the outcome of the review.

2. Scope

The Local Government Act 1999

- 2.1 This policy and procedure is required by section 270(1) of the *Local Government Act 1999* (the Act) and forms part of the council's processes for dealing with complaints. This 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.
- 2.2 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

- 2.3 Council also has a Customer Compliments, Comments and Complaints Procedure for dealing with complaints and requests for service. As a general rule, Council will promote that Procedure in the first instance as it offers the potential for immediate resolution.
- 2.4 An Internal Review of a Council Decision is the third tier in Council's complaints handling 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 Procedure

and on Council's receipt of the Prescribed Application Fee of \$20.

Matters outside the scope of the Policy

- 2.5 Other provisions in the Act 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).
- 2.6 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 Home and Community Care services, where specific complaint/review mechanisms are identified.
- 2.7 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.
- 2.8 Full cooperation with any such authority will be afforded as necessary, in order to resolve the matter as quickly as possible.
- 2.9 This Policy/Procedure does not provide for a review of a decision of Council:
- To refuse to deal with, or determine to take no further action in relation to, a complaint under Part A1 Division 1 of the *Local Government Act*

1999 (Member Behaviour) by a person who is dissatisfied with the decision; or

- Relating to a recommendation of the Ombudsman under part 1 “Conduct of Members”, Review of local government acts, decisions and operation - Chapter 13 of the *Local Government Act 1999*.3.

3. Legislative Requirements and Corporate Policy Context

- 3.1 *Local Government Act 1999*
- 3.2 *Freedom of Information Act 1991*
- 3.3 *Independent Commissioner Against Corruption Act 2012*
- 3.4 *Ombudsman Act 1972*
- 3.5 *State Records Act 1997*

4. Interpretation/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 *Local Government Act 1999* 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.

Prescribed Application Fee means the prescribed fee of \$20, as set in the *Local Government (Application for Review Fee) Notice 2021*, and applies to all section 270 applications for review of a council decision.

Reviewable decision refers to the decision of which the review is sought.

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.

5. Applications for Review of a Decision

Making an application

- 5.3 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.
- 5.4 An application must be made in writing and received by Council within 6 months of the making of the original decision, of which the review is sought (the reviewable 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).
 and the payment of the prescribed application fee.
- 5.5 There is a \$20 application fee that must be paid to the Council at the time an applicant lodges an application. An application will not be considered 'officially received' until payment has also been received or the Fee has been waived by Council.
- 5.6 Council may, in its absolute discretion, reduce, waive or refund (in whole or part) the prescribed fee under clause 5.5.
- 5.7 Council may allow an application to be made more than 6 months after the making of the reviewable decision in appropriate cases.
- 5.8 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
34 Church Street
SALISBURY SA 5108

or

By email:

Internal Review Request
Chief Executive Officer *or* Mayor
city@salisbury.sa.gov.au

- 5.9 An application can be emailed directly to the above email address, however the application will not be considered 'officially received' until payment has also been received. If you choose to take this option please put a note with the payment advising of the application it relates to and address the payment to:

Internal Review Request
Chief Executive Officer *or* Mayor
City of Salisbury
12 James Street
SALISBURY SA 5108

- 5.10 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.
- 5.11 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.
- 5.12 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.

- 5.13 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.
- 5.14 Where the CEO or delegate, or Mayor, or reviewing officer has reasonable suspicion that the complaint involves corruption in public administration then the matter must be reported to the Office of Public Integrity (OPI) in accordance with the *Independent Commissioner Against Corruption Act 2012*.
- 5.15 Where the CEO or delegate, or Mayor, or reviewing officer has information that the complaint involves maladministration or misconduct, then the CEO or delegate, or Mayor, or reviewing officer may refer the complaint to the Ombudsman or seek guidance from the Ombudsman in accordance with the *Ombudsman Act 1972*.
- 5.16 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 (where possible and appropriate);
 - 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.
- 5.17 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.

5.18 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

5.19 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.

5.20 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;
- iv. Council or the reviewer (as the case requires) is satisfied that the subject matter of the application has been or is already the subject of a review by Council or an investigation, inquiry or review by another authority.

5.21 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).”

5.22 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

5.23 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.

- 5.24 In most cases requests for review will be considered and determined within 28 days. However, in some circumstances the review process may take longer.
- 5.25 The applicant will be encouraged to participate cooperatively in the review process.
- 5.26 The applicant will be kept informed about the progress of the review either by email, letter or telephone.
- 5.27 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.
- 5.28 The applicant will be informed in writing of the outcome of the review within 5 business days of the determination being made.
- 5.29 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.

Procedural Fairness

- 5.30 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.
- 5.31 "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

- 5.32 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

- 5.33 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.
- 5.34 The applicant will be encouraged to observe confidentiality as this is likely to achieve the fairest result for all concerned.
- 5.35 The applicant's personal information will be used by the reviewing officer in relation to investigating and reviewing the application.
- 5.36 Only relevant parties will be involved in the internal review process.
- 5.37 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*.
- 5.38 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*.
- 5.39 Information contained within the application may be accessible under the *Freedom of Information Act 1991*.

Record Keeping

- 5.40 The reviewing officer must keep written records of interviews and the process undertaken.
- 5.41 Records must be factual and objective.
- 5.42 Records must be securely stored and registered in Council's records management system and in compliance with the *State Records Act 1997*.
- 5.43 Only those persons with a genuine need to view the material will be allowed access to the records.

Annual Reporting

- 5.44 In accordance with section 270(8) of the Act, 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

5.45 At its absolute discretion, and in accordance with section 271 of the Act, 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.

5.46 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 Act.

6. Related Policies and Procedures

6.1 City of Salisbury Customer Compliments, Comments and Complaints Procedure

7. Approval and Change History

Version	Approval Date	Approval	Change
4.00	20 December 2021	Council Decision (1186/2021)	Updates to reflect new legislative provisions to Section 270 of the <i>Local Government Act 1999</i> .

8. Availability

8.1 The Policy is available to be downloaded, free of charge, from Council's website www.salisbury.sa.gov.au

9. Review

This Policy will be reviewed within 12 months of a Council election and thereafter as necessary taking into account:

- The frequency dictated in legislation; or
 - Earlier in the event of changes to legislation or related Policies and Procedures; or
- If deemed necessary by Council.

Further Information

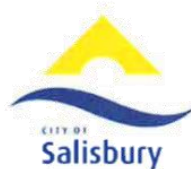
For further information on this Policy please contact:

Responsible Officer: Manager Governance

Address: 34 Church Street, Salisbury SA 5108

Telephone: 8406 8222

Email: city@salisbury.sa.gov.au



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 Receipt Number

Fees and Charges

An application fee of **\$20** must be submitted with the completed application form.

Is the application fee attached? ☐ Yes ☐ No

Application fee is in the form of ☐ Cheque ☐ Cash ☐ Money Order ☐ Credit Card

(Do not send cash through the mail)

If you wish to pay your application fee via credit card, Council will contact the applicant via telephone to process payment on receipt of the application.

This application will not be valid until the application fee has been received by the Council.

Details of Application:

I request a review of the following decision made by Council:

.....

.....

.....

.....

.....

My reason for requesting a review of the decision is because:

.....

.....

.....

.....

.....

.....

Applicant's Signature: **Date:**/...../.....

Kelley Jones

APPENDIX 4



T: 08 8113 7100
 Level 6/19 Gilles Street
 Adelaide SA 5000
 GPO Box 2024 SA 5001
 ABN 66 158 460 723

28 October 2022

Mr Jon and Ms Sarah Scholten
 4 Treetop Court
 PARALOWIE SA 5108

By email: [REDACTED]

Dear Mr and Ms Scholten

CONSTRUCTION OF A CARPARK AT TREETOP COURT PARALOWIE

We understand you are the owners of the property located at 4 Treetop Court, Paralowie.

At its Agenda item 4.1.5 *Boardwalk Carparking Investigation* at its meeting of 19 April 2022, the Urban Services Committee of the City of Salisbury (the **Council**), resolved as follows (emphasis ours):

That Council:

1. Approves the Administration organising for the reinstatement of parking signage within Chesser Row at a cost of \$1500.
2. Approves the Administration sending out an educational pamphlet to residents within the Boardwalk development that outlines the availability of car parking and a reminder on parking rules.
3. Approves the construction of a twelve-bay car park in Treetop Court as per Attachment 5 – Option 3 Boardwalk Additional Parking (12) (Urban Services, 19th April 2022, Item No: 4.1.5.)
4. Notes that expenditure of approximately \$50,000 will be required to undertake the construction of the twelve-carpark off Treetop Court, subject to detailed design and costing, and that this expenditure will be included as a budget bid for the financial year 2022/23.
5. That staff give further consideration to additional car parking opportunities in the Boardwalk Estate including along Greentree Boulevard.

CARRIED

Following which, at Agenda item 4 at its meeting 26 April 2022, the Council, as a governing body, resolved to adopt the recommendations of the Committee, including 4.1.5 *Boardwalk Carparking Investigation*.

sai0001_220516_002.docx

Knowledge & Innovation [SAVED FOR FUTURE REFERENCE](#)

Mr and Ms Scholten

28 October 2022

Subsequently, by application dated 19 October 2022, you have requested a review of this decision pursuant to section 270 of the *Local Government Act 1999* (the **Act**).

Following receipt of your application, this firm has been engaged as external reviewer to undertake an 'arms-length' and independent review of the decisions made by the Council, giving rise to your complaint.

We confirm the review will be undertaken in accordance with the Council's **attached** *Internal Review of Council Decisions Policy and Procedure*, as well as the relevant principles of procedural fairness.

The objective of the review is to examine the processes in arriving at the decision of concern to you and, insofar as the processes fall for consideration under section 270 of the Act, the objective is to determine whether they were reasonable, appropriate and lawful.

As part of our role, we have been provided with a copy of your application of 19 October 2022, requesting the review.

Our purpose in contacting you at this point is to confirm our appointment and to ask that if there is any further information you would like us to receive and, if relevant, take into account as part of this review. If so, we request that you provide it to us before the close of business on **Friday 4 November 2022**.

If we do not receive anything further from you, we will proceed with the review on the basis of the information you have already provided to the Council, together with information which is provided by the Council.

The review process will be conducted efficiently and fairly.

For the avoidance of doubt, we have been assured that no works will commence on the proposed carpark, whilst this review process is undertaken.

Upon finalising the review, we will then prepare a report with recommendations for the Council to consider and determine the outcome of the review.

Please do not hesitate to contact me if you have any questions regarding the review process.

Yours sincerely
KELLEDY JONES LAWYERS



TRACY RIDDLE
Direct Line: 08 8113 7106
Mobile: 0431 867 523
Email: triddle@kellydijones.com.au

sali0001_220516_002.docx

Kelley Jones

APPENDIX 5

Attention Tracy Riddle
Kelledy Jones
Level 6/19 Gillies Street
Adelaide SA 5000

3rd November 2022

Dear Tracy,

I provide the following to reiterate and substantiate our position re our Application of an Internal Review of a Council Decision.

Background - On the 16th February 2016, my mother Lee Kirtland was involved in the original enquiry with Connekt, the Sales Agency for Boardwalk at Greentree. She was presented with the information by Alex Minicozzi from Connekt and discussed choices and options in-depth, including future planning of the development. I had only recently returned from the UK together with Jon to settle in Adelaide.

Over the next two weeks Jon and I consulted regularly with Alex Minicozzi and with the assistance of my father, Mark Kirtland, a member of the Entrepreneurs Organisation, we evaluated all the options as we were new to this process. Alex Minicozzi explicitly assured us the natural landscape in front of 4 Treetop Court would be planted and remain natural vegetation. We had a choice of blocks and there were 3 large blocks that were of interest, but Treetop Court had more appeal. The property at 4 Treetop Court Paralowie was sold based on, a quiet cul de sac with new natural vegetation in front of the property that would remain untouched and a safe environment for our growing family. Given the size of our block it was one of the more expensive in the development.

In the coming months, the Boardwalk at Greentree website <https://www.boardwalkatgreentree.com.au/> saw us promote the area, as well as the contractors reiterating the words of Connekt and the Salisbury Council.

The Landscape Artist conveyed in his video *"The development is nestled in amongst a fantastic natural system"* he points to the area on a map, the natural area of vegetation around Boardwalk at Greentree and in front of our property and continues *"the way in which the development is enveloped by these natural systems just makes it a fantastic area"*

My parents, Jon and I were all advised that Boardwalk at Greentree had adequate parking for residents and urban growth was well planned. We naturally assumed this was the case but now we find the development obviously was not well planned and we have been misled.

Over the past couple of years, we believe there has been a number of complaints by residents about the lack of parking and breaches of parking rules at the Jewel development. We cannot be held responsible for residents who utilise their garage space for storage and who chose not to make use of the surrounding area for parking. For example, the southern side of Boardwalk Drive has ample parking, but residents chose not to park there.

As urban growth was well planned, we believed that adequate parking in the development accounted for the lack of close and unreliable Public Transport. As an example, Jon and I both have a car as we work shifts. Apart from the fact there is no public transport before 5:30am, the most direct route to my workplace would take 1:05hr and would depend on buses running on time, which they do not. The closest direct route, the Bolivar bus stop is 1.2km walk from my home. The bus stops on Kings Road are between 900m to 1.1m and I would require 3 buses to my workplace taking over 2 hours. Public transport is a nightmare and is far from a quality system of transport. Whereas, driving takes me 12 minutes.

The Salisbury Council anticipated that car ownership is low for first home buyers however car ownership is generally high for couples with no close public transport irrespective if this is their first home or not. A number of the Jewel development apartment owners are in fact investors and have leased their properties and not first home buyers at all.

The Jewel development residents should be penalised, fined, and held accountable. Honestly, we don't believe the Jewel development residents will park in the available surrounding parking in the area or any carpark constructed by council for that matter. They will park as they do now, close to their home.

A secluded carpark in Treetop Court will increase the risk of crime and I am extremely fearful. It was difficult enough when I reported criminal activity in the street to the Police and I was absolutely petrified.

Carparks are notorious for crime, a hangout for hoons, vandals, thieves and other antisocial behaviour. There is no sufficient lighting and criminals or their intent can't be seen.

The CCTV in our Treetop Court and Boardwalk Drive was ineffective when our home was under construction. We had numerous property thefts including an installed air-conditioning unit which was severed from the wall and stolen from the side of our home. The weight of this unit would have required more than one person and a vehicle; however no footage could be provided. The Salisbury Council did supply us with a security fence until the build was complete.

A carpark provides criminals with the ability to survey our home to determined when we are home or not. This area designated for the carpark is secluded, quiet and tucked away. The CCTV is unreliable and honestly, we are unaware if it is operational at all.

My family's safety is at risk, and I will not feel safe in my home should a carpark be constructed. I have already endured enough trauma in my life without this carpark exacerbating my mental health.

The council cannot guarantee our wellbeing and the protection of our family. I honestly don't believe the Council understands the severity of my illness. As you can appreciate, when you fall 8 metres from the Spin Dragon ride onto the people waiting in line below, then wait for the emergency services to attend, it is horrific. I sustained back injuries and a fragmented coccyx, I was harnessed into the ride and injured, and the people trapped beneath me were screaming at my feet. It was unimaginable.

I can provide a psychological assessment from Dr Anne Bartlett, Hon Consultant in Forensic Psychiatry, St Georges University London if required.

I have stated in the Application of the Review of a Decision, I endured 14 years of litigation due to the Spin Dragon Collapse, I suffered serious mental health issues and had physical injury. I purchased a family home with the compensation from the Class Action to begin a new chapter in my life, only to be told after the fact, a carpark will be constructed directly in front of our home. Words cannot express how distraught we are and how this will affect our family. Carparks attract crime and we should not be penalised by the practices of the Jewel development residents.

Together with Jon, and without hesitation if the decision is not revoked, we will present this to the media and take this matter further.

Yours Truly

Sarah Scholten

From: Alex Minicozzi alex@connektup.com.au
Subject: RE: Boardwalk at Greentree
Date: 17 February 2016 at 9:21 am
To: Lee Kirtland [REDACTED]



Hi Lee

Thank you for your email.

Titling and practical completion will be August – so we expect our first homes to start construction then.

Lot 18 - \$215,000

Lot 19 - \$229,990

Both are available.

Kind regards

Alex Minicozzi

Alex Minicozzi
 Principal Planner, Development Advisory Services
 t (08) 8203 1288 m 0477 000 922 f (08) 8203 1290
 e alex@connektup.com.au
 Level 1, 120 Hutt Street, Adelaide SA 5000
 RL247093

connektup.com.au



Connekt people with property...

connekt



Form R3 - Buyers information notice
 Form R2 - Warning Notice

(Disclaimer: The information contained in this electronic e-mail transmission may be confidential and may also be the subject of legal professional privilege. If you are not the intended recipient, any use, disclosure or copying of this document or the information contained herein is prohibited. If you have received this information in error, please telephone 61 8203 1288 or e-mail the address above. We have taken precautions to minimise the risk of transmitting software viruses, but we advise that you carry out your own virus checks on any attachment(s) relating to this message. We cannot accept liability for any loss or damage caused by software viruses.)

From: Lee Kirtland [mailto:[REDACTED]]
Sent: Wednesday, 17 February 2016 9:17 AM
To: Alex Minicozzi <alex@connektup.com.au>
Subject: Re: Boardwalk at Greentree

Hi Alex,

Thank you for your email.

My daughter and her partner are going to Greentree today to have a look.

Just a quick question, they understand this is a pre release however, when will they be able to build.

Also can you give some indication of which blocks are already sold.

And the price of block 18 and 19 as an indication of the land value

Kind regards

Lee Kirtland

On 16 Feb 2016, at 4:22 PM, Alex Minicozzi <alex@connektup.com.au> wrote:

Thank you for your registration of interest regarding Boardwalk at Greentree Land Release at Paralowie

Boardwalk at Greentree located on Walpole Rd will comprise of 122 allotments, complete with parks, BBQ facilities, a playground, walking trails and a boardwalk across the wetlands.

Attached is the subdivision layout that has full planning approvals. I strongly encourage you to visit the site and see the stunning landscape that this project is positioned in or arrange a meeting with me for a tour.

One can secure allotment/s within the entire estate at the moment through a letter of intent whereby you can have first right of refusal on that allotment/s until contracts are finalised.

House and land packages will become available – but please note, we are in a pre-release phase and your ability to choose the best allotments is now. It is a chose your own builder development for the conventional allotments.

For pricing and availability – please contact me on 0477 000 922.

Alex Minicozzi
Principal Planner, Development Advisory Services
t (08) 8203 1288 m 0477 000 922 f (08) 8203 1290
e alex@connektup.com.au
Level 1, 120 Hutt Street, Adelaide SA 5000
RLA247093

connektup.com.au

<image831b8c.PNG> <imagecd34c76.PNG> <image959727.PNG>

<image749c78.PNG>
<image1a5151.PNG><imagebc7b49.PNG><image661864.PNG><image88946b.PNG><image9117cd.PNG>

Form B3 - Buyers Information Notice

Form B7 - Warning Notice

(Disclaimer: The information contained in this electronic e-mail transmission may be confidential and may also be the subject of legal professional privilege. If you are not the intended recipient, any use, disclosure or copying of this document or the information contained herein is prohibited. If you have received this information in error, please telephone 61 8203 1288 or e-mail the address above. We have taken precautions to minimise the risk of transmitting software viruses, but we advise that you carry out your own virus checks on any attachment(s) relating to this message. We cannot accept liability for any loss or damage caused by software viruses.)

<Boardwalk Masterplan.pdf>

03/11/2022, 18:11 Sarah Kirtland survived one Show disaster but arrived home to find it had happened again. | The Advertiser

Read Today's Paper | The Advertiser | 11pm Friday, November 03, 2022

Adelaide Today 10° / 18°

The Advertiser

Subscribe Sign In

My News Local SA National World Opinion Business Entertainment Lifestyle Sport

Sarah Kirtland survived one Show disaster but arrived home to find it had happened again.

SARAH Kirtland had just stepped off the plane from London on Friday night when she heard about the tragic death of an eight-year-old girl at the Royal Adelaide Show.

less than 2 min read September 13, 2014 - 11:07PM

STUNNED: Sarah Kirtland, who was a victim of the Spin Dragon, and her mother, Lee. Picture: MATT TURNER

SARAH Kirtland had just stepped off the plane from London on Friday night when she heard about the tragic death of an eight-year-old girl at the Royal Adelaide Show.

For Ms Kirtland, the news hit especially hard as she was one of the survivors of the Spin Dragon accident at the Show in 2000, when 37 people were injured when a part of the ride broke off and plunged 8m to the ground.

"I was just in tears, it was horrible," she said yesterday.

"We were a little bit older, about 16 at the time, and I obviously have my own son ... to know that this eight-year-old girl had gone, it's horrible." Now 29, Ms Kirtland has lived in London for the past six years and arrived back in Adelaide on Friday with her partner, Jonathan, and their one-year-old son James for her sister's wedding.

The memory of that terrible day in September 2000 has never left Ms Kirtland.

She broke her coccyx in the accident and knows it could have been much worse.

"It was spinning at the time and we landed like on our bums," she said.

"It could have been upside down and we could have landed on our heads. That is what I think about all the time."

And there are more subtle consequences. An everyday act such as entering a lift with her son can be terrifying because "I have to trust a lift with my life."

Loud noises and blackouts can also spark flashbacks to the moment of the accident.

<https://www.adelaidenow.com.au/news/south-australia/sarah-kirtland-survived-one-show-disaster-but-arrived-home-to-find-it-had-happened-again/news-story/a3...> 1/3

03/11/2022, 18:11

Sarah Kirtland survived one Show disaster but arrived home to find it had happened again. | The Advertiser

Her mother, Lee, who was there that day, was angry that another accident could happen at the Show.

"You didn't actually think it would happen again," she said.

"You just assumed that they say there is safety in place and it should never happen.

"People go to the Show because it's fun and the kids love it. You don't expect to take a child to the Show and not bring your child home."

Promoted Content

Why friends next door are so important

You May Like

Promoted Links by Taboola

Seniors Might Be Surprised By the Cost Of Liposuction Treatment

Price Of Laser Liposuction | search ads

My mum and little sister died by suicide just four months apart

Aussies Born Before 1962 Can Get Health Cover From Under \$26/Week

Health Insurance Comparison

Giant man says he's too tall to be alleged robber

The \$3.89 a week dental cover that's got Australia talking!

Health Insurance Comparison

Best 5 pizza joints in Adelaide

<https://www.adelaidenow.com.au/news/south-australia/sarah-kirtland-survived-one-show-disaster-but-arrived-home-to-find-it-had-happened-again/news-story/a3...> 2/3

03/11/2022, 18:11

Sarah Kirtland survived one Show disaster but arrived home to find it had happened again. | The Advertiser

Subscribe

Sign in

Membership

Subscription packages
Group/Corporate subscriptions
The Advertiser app
Today's Paper
Newsletters
Rewards

About Us

About us
Meet the team
Job opportunities
Code of conduct
Subscription FAQs
Financial Hardship Policy

Contact Us

Help and support
FAQs
Letter to the Editor
Photo Sales
Advertise with us

Our News Network

Herald Sun
Courier Mail
The Daily Telegraph
news.com.au
The Australian
The Mercury
Geelong Advertiser
The Cairns Post
Gold Coast Bulletin
Townsville Bulletin
The Chronicle
NT News
The Weekly Times
CODE Sports

Our Partners

Buy Search Sell
Classifieds
Find Your Local
Foxsports
Foxtel
Hipages
Kayo
My Tributes
Punters
odds.com.au
racenet.com.au
realestate.com.au
Sky News
Coupons
Brain Gains

Our Apps



A NOTE ABOUT RELEVANT ADVERTISING: We collect information about the content (including ads) you use across this site and use it to make both advertising and content more relevant to you on our network and other sites. Find out more about our policy and your choices, including how to opt-out. Sometimes our articles will try to help you find the right product at the right price. We may receive payment from third parties for publishing this content or when you make a purchase through the links on our sites.

Nationwide News Pty Ltd © 2022. All times ACDT (GMT +10:30). Powered by WordPress.com VIP

[Privacy policy](#) [Relevant ads opt-out](#) [Cookie policy](#) [Terms of use](#)

<https://www.adelaidenow.com.au/news/south-australia/sarah-kirtland-survived-one-show-disaster-but-arrived-home-to-find-it-had-happened-again/news-story/a3...> 3/3

03/11/2022, 18:14

Calls for national ride database grow following death of 8 year-old Adelene Leong at Royal Adelaide Show - ABC News

ABC NEWS

Calls for national ride database grow following death of 8 year-old Adelene Leong at Royal Adelaide Show

By Sarah Mullins, Stacey Pestrin, and Patrick Martin

Posted Wed 8 Jun 2022 at 4:19pm, updated Thu 9 Jun 2022 at 10:59am



Sarah Scholten was 16 when the ride she was on malfunctioned, leaving her with life-long trauma. (ABC News: Sarah Mullins)

Sarah Scholten remembers the moment her thrill-seeking amusement ride turned into a nightmare.

"I remember it all ... as it was flipping, I thought 'this is going really slow, it's not doing what it's meant to do' and that's when the music stopped, it went silent, and then [I heard] just screams and we fell," Ms Scholten said.

The Spin Dragon ride at the Royal Adelaide Show had malfunctioned, sending its rotating mechanical arm plummeting to the ground.

People waiting in line below were crushed and 37 people were injured.

Key points:

- Sarah Scholten suffered a broken coccyx when the ride she was on malfunctioned in 2000
- She has backed the call from SA's deputy coroner for a national database of show rides following the death of 8-year-old Adelene Leong
- Adelene died after being thrown from a ride at the 2014 Royal Adelaide Show

<https://www.abc.net.au/news/2022-06-08/support-for-national-database-of-show-rides-after-childs-death/101134174>

1/5

03/11/2022, 18:14

Calls for national ride database grow following death of 8 year-old Adelene Leong at Royal Adelaide Show - ABC News

"We were screaming 'let us out, let us out' and I felt like it was forever before someone came to click every single harness up before we could jump over the people who were screaming," she said.

"That has never left me."

A constant physical reminder of the accident in 2000 is back pain that she attributes to the broken coccyx she suffered in the accident.



Thirty-seven people were injured in the Spin Dragon accident, with three people suffering serious injuries. (ABC News)

Despite the significant incident, no national database of show rides was enacted.

The call for one has come this week from South Australia's deputy coroner Ian White, as [part of his findings into the death of 8-year-old Adelene Leong](#), who was thrown from the Airmaxx 360 ride at the Royal Adelaide Show in 2014.

Twenty-two reports were made regarding minor injuries at the Royal Melbourne Show and WorkSafe Victoria lifted the minimum height restriction for passengers to 130 centimetres before the ride arrived in Adelaide.

"Adelene's death that day was inexcusable. It could and should have been prevented," Mr White said in his findings.

<https://www.abc.net.au/news/2022-06-08/support-for-national-database-of-show-rides-after-childs-death/101134174>

2/5

03/11/2022, 18:14

Calls for national ride database grow following death of 8 year-old Adelene Leong at Royal Adelaide Show - ABC News

Ms Scholten supported the call for a national database, saying Adelene's death was tragic and the way the industry was managed needed to change.

"Why wasn't there a regulation? Surely that should have come in after our ride. That is truly shocking," she said.

"You have children's lives in your hands. If the government doesn't do anything, that's on them."

The mother of two has taken her two young sons to the Royal Adelaide Show but said it was difficult.

"I don't want my fears and my Post Traumatic Stress Disorder to ruin their lives but I don't want them to go on to [a ride] that isn't safe for them," she said.

"They haven't been on thrill-seeking rides ... I need to be able to see that nothing is going to go wrong but how can you trust them [the rides] with your children's lives?"



Adelene Leong died after being thrown from a ride at the 2014 Royal Adelaide Show. (Supplied by SA Police)



Investigators determined the accident was caused by bolts holding the Spin Dragon's mechanical arm shearing off. (ABC News)

'Really hard reading'

Agricultural Shows Australia represents 580 agricultural shows across Australia.

<https://www.abc.net.au/news/2022-06-08/support-for-national-database-of-show-rides-after-childs-death/101134174>

3/5

03/11/2022, 18:14

Calls for national ride database grow following death of 8 year-old Adelene Leong at Royal Adelaide Show - ABC News

Executive Officer Katie Stanley said the organisation was "extremely supportive" of a national database.

"We recognise there's some thought that needs to go in around how that would look but it is certainly something we have been pushing for a little while," Ms Stanley said.

She hoped all of the deputy coroner's recommendations would be enacted.

"What we have to take into consideration is that there are shows that are not ag shows that have rides at them," she said.

"We would love to work with the government moving forward to see what is possible to ensure this never happens again and that we have the right information, and we can share it to all our members."



The Airmaxx 360 ride has since been sold to an operator in the UK. (ABC News: Giulio Saggin)

Royal Adelaide Show general manager Michelle Hocking agreed.

"I think that would go a long way to helping because if there are any issues with any rides, they should be on that national database and we would know about it," Ms Hocking said.

<https://www.abc.net.au/news/2022-06-08/support-for-national-database-of-show-rides-after-childs-death/101134174>

4/5

03/11/2022, 18:14

Calls for national ride database grow following death of 8 year-old Adelene Leong at Royal Adelaide Show - ABC News

She said a database would also help smaller event organisers such as school fairs select safe rides.

"If there was that database that you could go to and check or the regulator could check to see if there were any issues, you just wouldn't have them," she said.

"They'd go out of business because no one would use them, and that's the way it should be."

Ms Hocking described the report as "really hard reading".

She said the deputy coroner's report indicated the ride's operators were under financial stress and were "cutting a lot of corners" as a result.

Ms Hocking said while, "90 plus per cent of the ride industry are good, hardworking people", there were some who did the wrong thing.

"We can continue to do everything we do and constantly refine and review what we do, but when someone's out to do something that's illegal, it's really hard to pick that up and that's exactly what's happened in this case," she said.

Royal Agricultural and Horticultural Society of SA chief executive John Rothwell said changes had already been made since Adelene's death, but organisers would work through any other recommendations handed down by the deputy coroner on Tuesday.

A Safe Work Australia spokesperson said it was considering the recommendations.

The spokesperson said a 2018 review of work health and safety laws had led to "new requirements for improved record keeping and operator training for amusement devices".

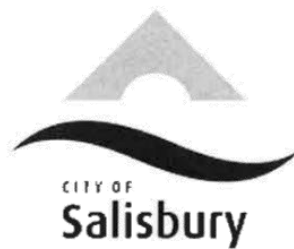
"It is now up to each jurisdiction to incorporate the changes into their WHS laws," the spokesperson said.

<https://www.abc.net.au/news/2022-06-08/support-for-national-database-of-show-rides-after-childs-death/101134174>

5/5

Kelley Jones

APPENDIX 6



Community Consultation Policy

Policy Type:	Policy		
Approved By:	Council	Decision No:	0744/2015, 0508/2020
Approval Date:	23 November 2015	Last Reapproval Date:	27 April 2020
Review Date:	April 2022	Internal Reference No.:	
Department:	Business Excellence	Division:	Community Experience & Relationships
Function:	9 - Governance	Responsible Officer:	Manager, Community Experience & Relationships

A - PREAMBLE

1. The City of Salisbury is strongly committed to open, accountable and responsive decision making, which is informed by effective engagement, communication, and consultation between the Council and the Community.
2. In support of this Council has an endorsed Community Experience Charter which commits Council to work with the Community to deliver exceptional Community experience that exceeds Community expectations and delivers a future that we can all be proud of.
3. In the Community Experience Charter, our vision, "a flourishing city for all" is supported by our values – respectful, accountable, collaborative and helpful.
4. The requirements for preparation, adoption and alteration to a Council's Public Consultation Policy are detailed in Section 50 of the Local Government Act 1999 (the Act).

B - SCOPE

5. This Community Consultation Policy (the Policy) has been prepared pursuant to Section 50 of the Act and sets out the steps the Council will take:
 - where it is required by the Act to follow its public consultation policy;
 - in encouraging Community involvement in planning and decision making relating to Council programs and service delivery
 - where other legislation prescribes consultation processes, where those processes will be followed as a minimum and the Policy will be applied to any discretionary elements of such consultation
6. The Community Consultation Procedure will be utilised by Staff and Elected Members in the application of this Policy when undertaking Community Engagement and Consultation.

15/12/2015

7. In the application of this Policy, Council will conduct all consultation processes in an independent manner to enable Community members and stakeholders to participate and express their views freely.

C – POLICY PURPOSE/OBJECTIVES

8. The purpose of this Policy is to recognise the diversity of our local people and their communities and ensure any consultation is designed to best meet the needs of the Community and Council to achieve the following outcomes:
 - Establishing engaging and sustainable partnerships;
 - Building the wellbeing and a sense of pride among our people;
 - Developing a commitment to continuous improvement in our approach to engagement; and
 - To develop effective and ongoing engagement between Council and the local Community.
9. The following Community Engagement principles are central to the City of Salisbury's approach to the Community consultation processes:
 - Participation: Council views all members of its Community as being citizens and recognises that citizenship grows and develops with the participation of citizens in democratic processes
 - Respect: Council values and respects the diversity of the Community of the City of Salisbury and believes that all citizens have the right to be consulted and to participate in Council's consultative and decision-making processes.
 - Partnership: Council will work in partnership with the Community to shape the future of the City of Salisbury because it believes that the City's future is best achieved through an active and informed citizenry.
 - Wellbeing: Council believes that Community wellbeing, vibrancy and sustainability are enhanced by citizens participating in Council's decision-making process.
 - Accountability: Council is accountable to its Community through Community participation and engagement for the management of its resources, assets and expenditure and for the decisions it makes.
 - Accessibility: Council recognises that there are a number of groups within the Community who have particular requirements to enable them to participate effectively in decision making processes. Council will ensure that any barriers to effective Community participation and engagement are addressed.
10. In applying this Policy, Council will utilise its Community Engagement Framework to enable a consistent and effective approach to consultation by its staff.

D – DEFINITIONS

11. The Act refers to the *Local Government Act 1999* unless otherwise specified.

15/12/2015

12. Community Consultation is the process Councils undertake to obtain community views on issues as an input to decision making. The Act requires Council to adopt a public consultation policy and apply it when consulting on particular matters.
13. Community Engagement is an all-encompassing term that incorporates all forms of community participation in decisions that affect them. The International Association for Public Participation (IAP2) identifies and defines differing levels of Community Engagement on a spectrum. These are inform, consult, involve, collaborate and empower. These underpin the approach behind the City of Salisbury's Community Engagement Framework.
14. Policy refers to the City of Salisbury's Community Consultation Policy.
15. For the purposes of this Policy, the term 'Community' includes anyone who lives, works, studies, owns property or a business or is a visitor to the City of Salisbury.

E - POLICY STATEMENT

Council will:

16. Follow the steps listed in Section G of this Policy when undertaking Community Consultation to meet its public consultation policy obligations under the Act. Staff may choose to undertake additional consultation if it is appropriate for particular circumstances.
17. Provide opportunities for Elected Members to engage with the Community through planned and unplanned opportunities, to meet their obligations under section 59 (1)(b) of the Act '...to represent the interests of residents and ratepayers, to provide community leadership and guidance, and to facilitate communication between the community and the council.'
18. Without limiting item 16, Elected Members' roles in participating in formal consultation processes outlined under Section F item 28 of this policy, will be limited to that of observers, not facilitators, to maintain a level of independence in any formal consultation process of Council.
19. Be clear with the community about the purpose of any consultation activity and provide details of the process of consulting and any known constraints.
20. Use various tools and techniques, including social media, to support effective Community Consultation and engagement to achieve the outcomes outlined in Section C. Council staff, aided by the Manager, Community Experience & Relationships, will apply the Community Engagement Charter Framework to decide what tools and techniques are appropriate on a case by case basis and in alignment with the requirements of the Council's Media Policy
21. With each separate consultation, identify how comments/submissions/representations will be accepted by Council as part of the Community Consultation process.
22. Provide timely feedback to participants who have been involved in the consultation activities.
23. Integrate consultation activities across the organisation to minimise duplication of effort, resources and the risk of 'over consultation'.
24. Refer information from consultations and outcomes onto other areas of Council for further use and action as appropriate.
25. Design consultation processes that best meet the needs of the local community and Council, including the consideration of accessibility for disengaged, disadvantaged and hard to reach groups.
26. Provide quality information to its Community so that consultation is conducted in an informed atmosphere of shared knowledge and mutual respect.

15/12/2015

27. Evaluate all Community Consultation for continuous improvement.

28. Consult when:

Beyond its legislative obligations, Council will seek to uphold the intent of this Policy whenever consultation is warranted. Where this is the case, the Manager Community Experience and Relationships and the Community Experience Charter Framework should be referred to for advice and direction.

F – LOCAL GOVERNMENT ACT 1999 REQUIREMENTS

29. In circumstances where the Act specifically requires reference to a Council's public consultation policy, then Council will comply with the Act, in particular with regard to:

- a) Principal Office – Opening hours (section 45)
- b) Code of Practice – Access to meetings and documents (section 92 (5)(b))
- c) Annual Business Plans and Budgets (section 123)
- d) Basis of Rating (section 151)
- e) Basis of differential rates (section 156)
- f) Community Land – Exclusion from classification (section 193)
- g) Community Land – Revocation of Classification (section 194 (2))
- h) Community Land – Management Plans (section 197 (1)(2)(3))
- i) Community Land – Alienation by lease or licence (section 202)
- j) Roads – Permits restricting access, or for use or activity requiring public consultation under regulations (section 223)
- k) Roads – Planting of trees and vegetation (section 232)

30. The steps to be followed when consulting on the above matters are outlined in section G of this Policy and Appendix A.

31. When a matter under Council's consideration is not specifically required by the Act to follow the steps set out in its Public Consultation Policy, but specific sections within the Act do require that certain public consultation steps must be followed, Council will be guided by this Policy and the steps outlined in the relevant section of the Act. This will apply to:

- Representative Reviews (section 12)
- Status of a council/change of names (section 13)
- Commercial Activities – Prudential Requirements (section 48)
- Strategic Management Plans (section 122 (6))
- Passing of By-laws (section 249)
- Policies on Orders (section 259)

32. Where there are legislative requirements for consultation under other legislation, then these take precedence over the Policy, in so far as if there is any inconsistency.

33. In circumstances where there is no requirement to follow relevant legislated practices, Council staff will approach and undertake consultation in a manner that is consistent with the scope and principles of this Policy and those of the Council's Media Policy.

34. The consultation requirements for each of the matters set out above are provided in detail in Appendix A of this Policy. These are the minimum requirements and where considered appropriate additional steps may also be undertaken.

15/12/2015

G – PUBLIC CONSULTATION STEPS AS REQUIRED UNDER THE ACT

35. For each matter listed in Section F, section 28, Council staff will:
- 35.1. Prepare a document that sets out Council's proposal in relation to the matter; and
- 35.2. Publish a notice:
- describing the matter under consideration;
 - in newspapers circulating within the area of the Council; and
 - inviting interested persons to make submissions within a period stated in the notice (being at least 21 days).
36. When submissions have been received by the specified date, Council staff will:
- 36.1. Summarise and analyse the information;
- 36.2. Prepare a report for Council or the relevant Council Committee which:
- summarises the Community Consultation outcomes;
 - presents the information in the broader context of the matter under consideration;
 - makes recommendations for Council or the Committee to consider when deciding on the matter/s; and
 - is included on the agenda for the next available Council or Committee meeting.
37. Council will consider the report and relevant recommendation/s and decide on the matter/s.
38. The right to address Council or a Committee of Council by way of deputation in support of any submission may be granted at the discretion of the Mayor or Presiding Member, unless otherwise prescribed in the relevant legislation.

Document Control

Document ID	Community Consultation Policy
Prepared by	Julie Kushnir
Reviewed by	Council
Release	
Document Status	Endorsed
Date Printed	

15/12/2015

Appendix A

Public Consultation – Schedule of Requirements: for matters *where Council is specifically required* by the *Local Government Act 1999* to follow the steps set out in its Public Consultation Policy (Listed in Section F, item 28 of this Policy).

Matter	Section of the Act	Summary of Community Consultation Steps
<p>a) <u>Principal Office – Opening hours</u> Council should consult with its local community in accordance with this Policy about the manner, places and times at which its offices will be open to the public for the transaction of business, and about any significant changes to those arrangements. Note: the principal office of the City of Salisbury is at 34 Church Street, Salisbury, SA 5108.</p>	s. 45	<p>As per the steps set out in section G of this Policy.</p> <p>Notice No. 2 of the Local Government Act removes mandatory public meetings from the public consultation requirements of that Act for as long as Notice No. 2 remains in force and as such, are temporary. .</p>
<p>b) <u>Code of Practice – Access to meetings and documents</u> Before Council adopts, alters or substitutes a Code of Practice (on public access to Council and Committee Meetings and release of documents) it must follow the steps in this Policy.</p>	s. 92 (5)(b)	<p>As per the steps set out in section G of this Policy, with the addition of:</p> <ul style="list-style-type: none"> Before Council adopts, alters or substitutes a code of practice under this section it must make copies of the proposed code, alterations or substitute code (as the case may be) available for inspection or purchase at the Council's principal office.
<p>c) <u>Annual Business Plans and Budgets</u> Before Council adopts an annual Business Plan, Council must prepare a draft annual business plan and follow the steps in this policy.</p>	s. 123(3), (4), 5 and 5(a)	<p>As per the steps set out in section G of this Policy. In addition, the consultation process must provide at least for the following:</p> <ul style="list-style-type: none"> The publication in a newspaper circulating within the area of the Council and on a website determined by the chief executive officer of a notice informing the public of the preparation of the draft annual business plan and inviting interested persons - <ul style="list-style-type: none"> to attend: <ul style="list-style-type: none"> a public meeting in relation to the matter to be held on a date (which must be at least 21 days after the publication of the notice) stated in the notice; <u>or</u> a meeting of the Council to be held on a date stated in the notice at which members of the public may ask questions, and make submissions, in relation to the matter for a period of a least one hour; or to make written submissions in relation to the matter within a period (which must be at least 21 days) stated in the notice; and Council must make arrangements for a meeting and the consideration of any submissions made at that meeting or in response to the invitation, including ensuring copies of the draft annual business plan are available at the meeting for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council at least 21 days before the date of that meeting. Council must ensure that provision is made for a facility for asking and answering questions and the receipt of submissions on its website during the community consultation period. <p>Notice No. 2 of the Local Government Act removes mandatory</p>

15/12/2015

Matter	Section of the Act	Summary of Community Consultation Steps
		public meetings from the public consultation requirements of that Act for as long as Notice No. 2 remains in force and as such, are temporary.
<p>d) <u>Basis of Rating</u></p> <p>Before Council changes the basis of rating of any land; or changes the basis on which land is valued for the purposes of rating; or changes the imposition of rates on land by declaring or imposing a separate rate, service rate or service charge on any land Council must follow the steps in this Policy.</p>	s. 151(5)	<p>As per the steps set out in section G of this Policy.</p> <p>In addition, Council must:</p> <ul style="list-style-type: none"> • Prepare a report on the proposed change; • Publish a notice, in a newspaper circulating within the area of the Council, describing the proposed change and inviting interested persons to attend a community meeting in relation to the matter to be held on a date (which must be at least 21 days after the publication of the notice) stated in the notice; • Organise a community meeting and the consideration by the Council of any submissions made at that meeting or in response to the invitation; • Ensure copies of the report are available at the meeting and for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council at least 21 days before the end of the period for community consultation. <p>Note: A Report required under subsection (5)(d) may form part of the Council's draft annual business plan (and that plan as adopted) and the community consultation may be undertaken as part of the community consultation required with respect to the Council's draft annual business plan.</p> <p>Notice No. 2 of the Local Government Act removes mandatory public meetings from the public consultation requirements of that Act for as long as Notice No. 2 remains in force and as such, are temporary.</p>

15/12/2015

Matter	Section of the Act	Summary of Community Consultation Steps
<p>c) <u>Basis of differential rates</u></p> <p>Differential rates may vary according to the use of land; locality of the land; locality of the land and its use; or on some other basis determined by Council.</p> <p>Before Council changes from declaring differential rates in relation to any land it must follow the steps in this Policy.</p>	s. 156 (14a) and (14d)	<p>As per the steps set out in section G of this Policy.</p> <p>In addition, as part of the consultation process, Council must:</p> <ul style="list-style-type: none"> • Prepare a report on the proposed change; • Publish a notice, in a newspaper circulating within the area of the Council, describing the proposed change, informing the community of the preparation of the report and inviting interested persons to attend a community meeting in relation to the matter to be held on a date (which must be at least 21 days after the publication of the notice) stated in the notice; • Organise a community meeting and the consideration by Council of any submissions made at that meeting or in response to the invitation. • Ensure copies of the report are available at the meeting and for inspection (without charge) and purchase (on payment of a fee fixed by the council) at the principal office of the council at least 21 days before the end of the period for community consultation. <p>Note: A Report required under subsection (14a)(a) may form part of the Council's draft annual business plan (and that plan as adopted) or a report prepared for the purposes of section 151(5)(d) and the community consultation may be undertaken as part of the community consultation required with respect to the Council's draft annual business plan or consultation under section 151(7).</p> <p>Notice No. 2 of the Local Government Act removes mandatory public meetings from the public consultation requirements of that Act for as long as Notice No. 2 remains in force and as such, are temporary.</p>
<p>f) <u>Community Land – Exclusion from classification</u></p> <p>Before the Council resolves to exclude land from classification as community land under subsection (1)(a), it must follow the steps in this Policy.</p>	s. 193(2)	As per the steps set out in section G of this Policy.
<p>g) <u>Community Land – Revocation of Classification</u></p> <p>Council may (subject to the exceptions and qualifications set out in section 194 of the Act) revoke the classification of land as community land. In addition to the procedure outlined in the Act which Council must undertake, Council must also follow the steps in this Policy.</p>	s. 194 (2)	<p>As per the steps set out in section G of this Policy. In addition, Council must:</p> <ul style="list-style-type: none"> • Consult with Ward Councillors on the process to be followed, in accordance with Council's Community Consultation Policy. • Send letters to property owners in the area who are likely to be affected, inviting interested persons to make submissions for Council's consideration. Letters to property owners will be descriptive, informative and explanatory in terms of the reasons and purposes for the proposal. • Erect a sign on the reserve and/or land the subject of the revocation to advise of the proposal and the consultation process being followed. <p>In addition, as part of the revocation process, Council must prepare and make publicly available a report on the proposal</p>

15/12/2015

Matter	Section of the Act	Summary of Community Consultation Steps
		<p>containing:</p> <ul style="list-style-type: none"> • A summary of the reasons for the proposal; and • A statement of any dedication, reservation or trust to which the land is subject; and • A statement of whether revocation of the classification is proposed with a review to sale or disposal of the land and, if so, details of any Government assistance given to acquire the land and a statement of how the Council proposes to use the proceeds; and • An assessment of how implementation of the proposal would affect the area and the local community; and • If the council is not the owner of the land – a statement of any requirements made by the owner of the land as a condition of approving the proposed revocation of the classification. <p>After complying with the above requirements Council must:</p> <ul style="list-style-type: none"> • Submit the proposal with a report on all submissions made on it as part of the community consultation process to the Minister; and • If approved by the Minister, may make a resolution revoking the classification of the land as community land.
h) <u>Community Land – Management Plans</u> Before Council adopts a management plan for community land it must follow the steps in this Policy.	s. 197 (1), (2) and (3)	<p>As per the steps set out in section G of this Policy. In addition, Council must:</p> <ul style="list-style-type: none"> • Make copies of the proposed plan available for inspection or purchase at the Council's principal office. • Give public notice of its adoption of a management plan.
i) <u>Community Land – Alienation by lease or licence</u> Before Council may grant a lease or licence over community land (including community land that is, or forms part of, a park or reserve) it must follow the steps in this Policy.	s. 202	<p>As per the steps set out in section G of this Policy.</p> <p>Note that: a council need not comply with these requirements if:</p> <ol style="list-style-type: none"> (a) the grant of a lease or licence is authorized in an approved management plan for the land/and or the term of the proposed lease or license is five years or less (b) the regulations provide in the circumstances of the case, for an exemption from compliance with a community consultation policy.
j) <u>Roads – Permits restricting access, or for use or activity requiring community consultation under regulations</u> If Council proposes to grant an authorisation or permit that confers a right of exclusive occupation; or that would have the effect of restricting access to a road; or in relation to a use or activity for which community consultation is required under the regulations, then Council must follow the steps in this Policy.	s. 223	<p>As per the steps set out in section G of this Policy. In addition, Council must:</p> <ul style="list-style-type: none"> • Give written notice of the proposal to agencies that are, under the regulations, to be notified of the proposal.

15/12/2015

Matter	Section of the Act	Summary of Community Consultation Steps
<p>k) <u>Roads – Planting of trees and vegetation</u></p> <p>Before Council plants vegetation, or authorises or permits the planting of vegetation on a road, Council must follow the steps in this policy. Council must also (in addition to complying with any other statutory requirements) give consideration to:</p> <ul style="list-style-type: none"> whether the vegetation is, on balance, appropriate to the proposed site, and if the vegetation may have a significant impact on residents, the proprietors of nearby businesses or advertisers in the area. 	s. 232	As per the steps set out in section G of this Policy.

Public Consultation – Schedule of Requirements: for matters *where Council is not specifically required* by the *Local Government Act 1999* to follow the steps set out in its Public Consultation Policy, but is required to comply with community consultation steps as set out in the relevant sections of the Act.

Matter	Section of the Act	Summary of Community Consultation Steps
<p><u>Composition and wards / Representation Reviews</u></p> <p>A Council may, by notice in the Gazette after complying with the requirements of s.12:</p> <ul style="list-style-type: none"> alter the composition of the Council; or divide, or redivide the area of the Council into wards, alter the divisions of the area of the Council into wards, or abolish the division of the area of a Council into wards; or change the Council from a municipal council to a district council, or change the Council from a district council to a municipal council; or alter the name of the council or area of the council; give a name to, or alter the name of, a ward 	s. 12	<p>Council must:</p> <ol style="list-style-type: none"> <u>Prepare a Representation Options Paper</u> <ul style="list-style-type: none"> By public notice, published in a newspaper circulating within its area, inform the community of the preparation of the Representation Options Paper and invite written submissions on the subject of the review within a period specified by the Council (being a period of at least 6 weeks) Ensure copies of the Representation Options Paper are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) at the principal office of the Council during the period of consultation. <u>Prepare a Report</u> <ul style="list-style-type: none"> Make copies of the Report available for community inspection at the principal office of the council; and By public notice, published in a newspaper circulating within its area, inform the community of the preparation of the report and its availability and invite written submissions on the report within a period specified by Council (being a period of at least 3 weeks). Give any person who makes a written submission an opportunity to appear personally or by representative before the Council or a Council Committee and to be heard on those submissions. <u>Finalise the Report</u> <ul style="list-style-type: none"> Submit the report, accompanied by copies of written submissions received, to the Electoral Commissioner for certification.

15/12/2015

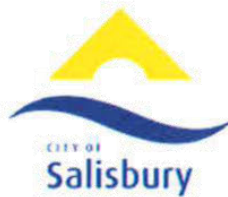
Matter	Section of the Act	Summary of Community Consultation Steps
<u>Status of a Council/Change of Names</u> A Council may, by notice in the Gazette, after complying with the requirements of s.13: <ul style="list-style-type: none"> change the Council from a municipal council to a district council, or change the Council from a district council to a municipal council; or alter the name of the council or area of the council; or alter the name of a ward. 	s. 13	Council must: <ul style="list-style-type: none"> Give public notice of the proposal inviting interested persons to make written submissions on the matter within a period specified by the Council (being at least 6 weeks); Publish a copy of the notice in a newspaper circulating within its area; Give any person who makes a written submission in response to an invitation to do so an opportunity to appear personally or by representative before the Council or a Council Committee and to be heard on those submissions.
<u>Commercial Activities – Prudential Requirements</u> Before engaging in: <ul style="list-style-type: none"> a commercial project (including through a subsidiary or participation in a joint venture, trust, partnership or other similar body) where the expected recurrent or capital expenditure of the project exceeds an amount set by council for the purposes of s.48; or; Any project (whether commercial or otherwise and including through a subsidiary or participation in a joint venture, trust, partnership or other similar body) where the expected expenditure over the ensuing 5 years is likely to exceed 20 per cent of the Council's average operating expenses over the previous five financial years or where the expected capital costs over the ensuing five years is likely to exceed \$4,000,000 Council must obtain and consider a report that addresses the prudential issues specified in s.48(2).	s. 48	Any report obtained and considered must be made available for community inspection at the principal office of the Council once the Council has made a decision on the relevant project (and may be available at an earlier time unless the Council orders that the report be kept confidential until that time).
<u>Strategic Management Plans</u> Council must develop and adopt plans (which may take various forms) for the management of its area, to be called collectively the <i>strategic management plans</i> .	s. 122(6)	Council must adopt a process or processes to ensure that members of the community are given a reasonable opportunity to be involved in the development and review of its strategic management plans. Council must ensure that copies of its strategic management plans are available for inspection (without charge) and purchase (on payment of a fee fixed by the council) by the community at the principal office of the Council.
<u>Passing of By-laws</u> Council must comply with specific consultation requirements if it proposes to make a by-law.	s. 249	Council must: <ul style="list-style-type: none"> at least 21 days before resolving to make a by-law, make copies of the proposed by-law (and any code, standard or other document proposed to be applied or incorporated by the by-law) available for community inspection, without charge and during ordinary office hours, at the principal office of the Council and on the internet; and at least 21 days before resolving to make a by-law, by publication of a notice in a newspaper circulating in the area of the Council, inform the community of the availability of

15/12/2015

Matter	Section of the Act	Summary of Community Consultation Steps
		<p>the proposed by-law and set out the terms of the by-law, or describe in general terms the by-law's nature and effect</p> <ul style="list-style-type: none"> • Give reasonable consideration to a written or other acceptable submission made • Once a by-law has been made, publish a notice of the making of a by-law in a newspaper circulating in the area of the Council <p>Notice No. 2 of the Local Government Act removes mandatory public meetings from the public consultation requirements of that Act for as long as Notice No. 2 remains in force and as such, are temporary.</p>
<p><u>Policies on Orders</u></p> <p>Council must take reasonable steps to prepare and adopt policies concerning Orders.</p>	s. 259	<p>Council must:</p> <ul style="list-style-type: none"> • Prepare a draft of the Policy • by publication of a notice in a newspaper circulating in the area of the Council, give notice of the place or places at which copies of the draft are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) and invite interested persons to make written representations on the draft within a period specified by the Council (being a period of at least 4 weeks). • Consider submissions made in response to the invitation. • Before adopting an amendment to a Policy, by publication of a notice in a newspaper circulating in the area of the Council, give notice of the place or places at which copies of the amended policy are available for inspection (without charge) and purchase (on payment of a fee fixed by the Council) and invite interested persons to make written representations on the draft within a period specified by the Council (being a period of at least 4 weeks). Consider submissions made in response to the invitation.

Kelley Jones

APPENDIX 7



**MINUTES OF URBAN SERVICES COMMITTEE MEETING HELD IN THE LITTLE
PARA CONFERENCE ROOMS, SALISBURY COMMUNITY HUB,
34 CHURCH STREET, SALISBURY ON**

19 APRIL 2022

MEMBERS PRESENT

Cr L Braun (Chairman)
Mayor G Aldridge (ex officio)
Cr M Blackmore (*via Teams VC*)
Deputy Mayor, Cr C Buchanan
Cr N Henningsen (*via Teams VC*)
Cr D Hood (Deputy Chairman)
Cr P Jensen
Cr S Ouk

STAFF

Chief Executive Officer, Mr J Harry
General Manager City Infrastructure, Mr J Devine
A/Manager Governance, Mr B Kahland
Governance Support Officer, Ms K Boyd

The meeting commenced at 7.15 pm.

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

APOLOGIES

There were no Apologies.

LEAVE OF ABSENCE

Nil

Minutes - Urban Services Committee Meeting - 19 April 2022

Item 3.1.9 - Attachment 2 - Section 270 Report Appendices

4.1.5 Boardwalk Carparking Investigation

Moved Cr C Buchanan

Seconded Mayor G Aldridge

That Council:

1. Approves the Administration organising for the reinstatement of parking signage within Chesser Row at a cost of \$1500.
2. Approves the Administration sending out an educational pamphlet to residents within the Boardwalk development that outlines the availability of car parking and a reminder on parking rules.
3. Approves the construction of a twelve-bay car park in Treetop Court as per Attachment 5 – Option 3 Boardwalk Additional Parking (12) (Urban Services, 19th April 2022, Item No: 4.1.5.)
4. Notes that expenditure of approximately \$50,000 will be required to undertake the construction of the twelve-carpark off Treetop Court, subject to detailed design and costing, and that this expenditure will be included as a budget bid for the financial year 2022/23.
5. That staff give further consideration to additional car parking opportunities in the Boardwalk Estate including along Greentree Boulevard.

CARRIED

4.1.5 Letter to MP Brown outlining available parking options within Boardwalk development

ITEM	4.1.5
	URBAN SERVICES COMMITTEE
DATE	19 April 2022
HEADING	Boardwalk Carparking Investigation
AUTHOR	Elena Pribytkova, Project Manager Strategic Development Projects, City Development
CITY PLAN LINKS	3.4 Our urban growth is well planned and our centres are active 4.2 We deliver quality outcomes that meet the needs of our community
SUMMARY	Strategic Development Projects has investigated the parking concerns raised at the Boardwalk at Greentree development including an analysis of the parking within the development to recommend mitigation strategies.

RECOMMENDATIONThat Council:

1. Approves the Administration organising for the reinstatement of parking signage within Chesser Row at a cost of \$1500.
2. Approves the Administration sending out an educational pamphlet to residents within the Boardwalk development that outlines the availability of car parking and a reminder on parking rules.
3. Approves the construction of a twelve-bay car park in Treetop Court as per Attachment 5 – Option 3 Boardwalk Additional Parking (12) (Urban Services, 19th April 2022, Item No: 4.1.5.)
4. Notes that expenditure of approximately \$50,000 will be required to undertake the construction of the twelve-carpark off Treetop Court, subject to detailed design and costing, and that this expenditure will be included as a budget bid for the financial year 2022/23.

ATTACHMENTS

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

1. Letter to MP Brown outlining available parking options within Boardwalk development
2. Jewel Living Site Plan and Elevations
3. Map of Parking within Boardwalk at Greentree Masterplan
4. Option 2 - Boardwalk Additional Parking (2)
5. Option 3 - Boardwalk Additional Parking (12)
6. Boardwalk Traffic Control Layout Plan

4.1.5 Letter to MP Brown outlining available parking options within Boardwalk development

Item 4.1.5

1. BACKGROUND

- 1.1 On the 28th February 2022 a motion without notice (SPDSC-OB1) was passed and this report outlines the investigations that relate to Item 5:

“Approves the administration undertake investigations to determine a solution to the carparking concerns raised by residents and provide a report back to Urban Services Committee regarding possible outcomes and costs by April 2022.”

2. CITY PLAN CRITICAL ACTION

- 2.1 Provide at least 15% affordable housing through Council’s development projects.
2.2 Deliver a residential development program by using surplus Council land.

3. CONSULTATION / COMMUNICATION

- 3.1 Internal
3.1.1 Environmental Health and Community Compliance
3.1.2 Infrastructure Management
3.1.3 City Infrastructure
3.2 External
3.2.1 Greenhill Engineering

4. REPORTBackground

- 4.1 To better understand the carparking issues, Strategic Development Projects (SDP) sought a summary of the types of complaints and any other correspondence that has taken place over time from the Manager of Environmental Health and Community Compliance.
- 4.2 Since 2019, a total of 16 parking complaints have been recorded by the Environmental Health and Community Compliance team. A summary of these is as follows:
- Cars parked and driveway blocked
 - Residents keep parking cars which are overhanging into the footpath and cars are stopping in front of pram ramps
 - 8 cars parked on Wildwood street leaving nowhere to park
 - Ridiculous amount of street traffic not to mention dangerous parking
 - Blocking my drive way. Parking on a bend, on a yellow line
 - On a yellow line on the corner. Partially on verge
 - Many of the town houses have one lock up garage and these appear to be used as a storage facility for the residents leaving nowhere to park
 - Blue Mazda is continually parked over the driveway
 - As the lane is one way and is sign posted No Parking, my tenant who lives opposite cannot get their car in or out of their garage
 - Car parked the wrong way in Chesser Row, Paralowie. Obstructing the driveway
 - Cars parked and driveway blocked. Unable to drive vehicle out or struggle to drive into the driveway due to vehicles blocking the laneway (Chesser Row).

4.1.5 Letter to MP Brown outlining available parking options within Boardwalk development

- Yellow lines to be extended please.
- 4.3 Prior to 2019, the following correspondence with Council also took place:
- On 15th August 2018, a mother of one of the residents of the Jewel development contacted council by phone asking for the provision of more parking around the Jewel development.
 - In September 2018 another resident from the Jewel development emailed Council to complain about builders and service authorities who were allegedly parking in the laneway and blocking access for residents.
- 4.4 More recently, in March 2021, Michael Brown, MP wrote a letter to Council regarding a resident who had sent photos with a complaint regarding parking in her area. The resident resides on Wildwood Street Paralowie which is a street adjacent to the Jewel development in Boardwalk.
- 4.5 A response was provided to Michael Brown MP on the 4th March 2021 by Council's Manager of Environmental Health and Safety. The letter outlined the available parking options around the Jewel development as well as parking within the surrounding area that is not being utilised. See Attachment 1.
- 4.6 Based on the above information, the parking complaints appear to predominantly relate to breaches of parking rules such as parking across driveways and yellow lines and overhanging onto verges and footpaths. Some also relate to the lack of parking. They appear to be concentrated around Chesser Row and Wildwood Street adjacent the Jewel development.
- 4.7 It is important to note that no other parking complaints have been received from other areas of the development.

Jewel Living

- 4.8 Jewel living is an award-winning development in the Urban Development Institute of Australia (UDIA) SA Affordable Housing category which was delivered as part of Boardwalk at Greentree.
- 4.9 The group of 30 double-storey two-bedroom units were designed to meet the growing demand for smaller, more affordable housing due to changes in demographics and worsening affordability and to also assist in meeting the requirement of providing at least 15% affordable housing outcome for the development.
- 4.10 While the rest of the development seeks to provide at least one undercover and one on site visitor car park per dwelling through its design and encumbrance which in many cases is exceeded, the requirement for Affordable housing at the time was to have one on site undercover car park and 0.5 visitor carparks per dwelling which was adopted for Jewel Living.
- 4.11 The units which were marketed at an affordable price point (and eligible at the time for the First Home Owners Grant and the Housing Affordability Fund (HAF) grant), sold well and received exceptional publicity capped off by the award win. See Attachment 2 for plans and elevations of the Jewel development.

Item 4.1.5

Item 3.1.9 - Attachment 2 - Section 270 Report Appendices

4.1.5 Letter to MP Brown outlining available parking options within Boardwalk development

Boardwalk Development Planning Overview

- 4.12 During the urban design and development of the neighborhood masterplan for Walpole Road Stage 3 (Boardwalk), alignment to the objectives, desired character and principles of Development Control of the City of Salisbury Development Plan Residential Zone and Council Wide Land Division & Residential Policies were considered. Some of the relevant considerations made at the time in relation to parking are as follows:
- 4.12.1 Objective 1 Residential Zone: A range of dwelling types have been proposed that will ensure the project can meet the minimum allocation of 15% affordable housing.
 - 4.12.2 Objective 2 Residential Zone: Dwelling densities at the medium density level are proposed as part of this subdivision proposal plan reflecting the site's location in close proximity to public open space and a 500m walk to quality public transport. The capacity for on-site carparking and street-based parking to support the density has been considered as car travel will be required for future residents to access employment and retail opportunities in the adjacent regional, neighborhood and local centers.
 - 4.12.3 Residential Zone Desired Character: The overall urban design approach and the vision developed to guide both design and delivery of this project is aligned to the Desired Character that the City of Salisbury have for development within the Residential Zone with a full range of dwelling types with a variety of building styles to deliver a compact urban form to be provided as part of this subdivision
- 4.13 The development was master planned to meet all of the criteria of the planning requirements at the time and in fact provides more car parking than is legislatively required.
- 4.14 The parking spaces are provided through long sections of one-sided road along Boardwalk Drive as well as throughout the well-designed streets which through the Building Envelope Plan (BEP) ensured driveway locations are strategically located and on-street parking is available.
- 4.15 The available parking numbers within the development are shown in Attachment 3. A total of 145 on street car parks have been provided.
- 4.16 Importantly, the development is designed such that all parking is catered for within the individual allotments except for some of the affordable housing component.
- 4.17 Affordable housing in the form of 'Nano housing' (such as Jewel) accounts for 35 dwellings which includes the Jewel development of 30. These dwellings are designed to provide only one onsite car park.
- 4.18 Although designed for smaller households, 35 of the on-street parking spaces could be required for the affordable housing component. This still leaves 110 car parking spaces available for all other visitor parking for the remaining 87 lower density dwellings.
- 4.19 While the planning of the development considered the master planned nature of the project, the Jewel development individual parking requirements were also measured.

Item 4.1.5

Item 3.1.9 - Attachment 2 - Section 270 Report Appendices

4.1.5 Letter to MP Brown outlining available parking options within Boardwalk development

Item 4.1.5

- 4.20 Since the completion of the project, anecdotal evidence suggests that some residents are not using their garage for parking but rather for storage while some have two cars per household and need to utilize the on-street parking on a regular basis. As there are 30 units, at times this can create a large overflow of cars from the development.
- 4.21 In addition, the townhouse allotments on Boardwalk Drive which are directly across the road from the Jewel development are vacant with crossovers constructed on the Jewel side. This has made it easier for residents to conveniently park on the crossovers which are being used instead of street parking. This to an extent creates the perception that those cars have nowhere else to park which has not been observed to be the case.
- 4.22 The key points identified as part of the investigation include:
- 4.22.1 Given there are 30 units within Jewel, there are not enough car parks immediately surrounding the development to accommodate two cars per dwelling particularly if garages are not being used for their intended purpose. We do not believe that all of the households have two cars but there is still a reasonable overflow of extra vehicles.
 - 4.22.2 Where on street parking is available, the option of parking on the vacant allotment across from Jewel is seen as a more desirable option.
 - 4.22.3 The Wildwood Drive and Cottage Lane area on the Western side of the Jewel development is problematic due to Cottage Lane not having any parking and the proximity of the junction and bend. Wildwood Drive however does have ample parking available which could be utilised instead.
 - 4.22.4 People are parking in the laneway which is not permitted and is a designated 'No Parking' zone
 - 4.22.5 On the Western side of the development around Wildwood street, Boardwalk Drive and Cottage Lane, people are parking over yellow lines as well as over footpaths in front of their garages at Jewel.

Option 1 – Improve parking signage and develop an educational package

- 4.23 Chesser Row is a one-way laneway that runs through the middle of the Jewel development. The traffic control layout (Attachment 6) shows a 'No Entry' and 'Emergency Vehicles Accepted' signage on the Northern end and 'One Way' and 'No Parking' on the Southern side. It also shows four 'No Parking' signs within Chesser Row which appear to have been removed during construction. It is proposed that these be reinstated as parking within Chesser Row has been a source of complaints. This is estimated to cost approximately \$1,500.
- 4.24 While some complaints relate to a lack of parking, about half relate to breaches of parking rules. Historically, a set of rules regarding parking within Boardwalk has been provided to the residents. However, residents may not be fully aware of the additional available parking within their immediate surroundings, particularly those living at Jewel.
- 4.25 It is proposed that the following information is provided to residents:
- Detailed map of available on street parking within the entire development such as the map provided within this report.

4.1.5 Letter to MP Brown outlining available parking options within Boardwalk development

- Reminder of parking rules, particularly relating to parking over verges, in front of driveways and over yellow lines as well as the no parking rules in Chesser Row.
- Reminder that parking on vacant allotments opposite the Jewel development is not permitted and that construction will be starting within six months.

Option 2 – Construct an additional six bay carpark

- 4.26 An investigation was undertaken to identify any areas that could be used to expand parking availability around the Jewel development. A number of locations were identified on site as not being acceptable with the main factor being the location of existing services and were not pursued. The only option identified as having some merit was at the end of Treetop Court.
- 4.27 Treetop Court is located approximately 30 metres from the Jewel development which means it can provide a convenient option for residents on the Southern and Eastern side of the development.
- 4.28 A compacted rubble car park was explored as a cost-efficient option which would also blend into the surrounding environment. Without disturbing any of the paths, this area is able to accommodate 6 car parks by putting a crossover with 90-degree parking. For more detail, see Attachment 4.
- 4.29 Using industry rates and past council projects, it is estimated that the cost of this option would be approximately \$18,000-\$22,000.
- 4.30 While this option may take the cars off the street which could be preferred for overnight parking, it only provides an additional two car parks to the existing four that are available in this area on the street. This is partially due to the light pole and side entry pit not enabling additional 90 degree parking.

Option 3 – Construct additional twelve bay carpark

- 4.31 To provide a compacted rubble carpark that would accommodate twelve additional parking spots in the same vicinity could cost approximately \$50,000 (See Attachment 6).
- 4.32 This option requires the realignment of the gravel pedestrian path and will need additional detailed engineering design and investigation to confirm the costs and appropriateness of the location.
- 4.33 An additional twelve carparks in this location will improve carparking opportunities to access the walking trail that adjoins the Little Para River. This will improve accessibility for residents outside of the development to enjoy the amenity of the trail that connects to the Dry Creek Linear Trail and the Northern Connector Shared Use Path.

5. CONCLUSION / NEXT STEPS

- 5.1 Investigations have indicated that there is ample parking throughout the Boardwalk at the Greentree master planned development although it is not located immediately adjacent to those dwellings with one carparking space.
- 5.2 To reinforce appropriate parking locations, it is recommended that parking signage be reinstated in Chesser Row, adjacent the Jewel development.

Item 4.1.5

Item 3.1.9 - Attachment 2 - Section 270 Report Appendices

4.1.5 Letter to MP Brown outlining available parking options within Boardwalk development

- 5.3 It is proposed that an educational pamphlet be distributed to residents within the Boardwalk development regarding available parking areas and that the parking situation be monitored for the next six months following installation of signage and distribution of the pamphlet.
- 5.4 In addition to providing additional carparking for local residents, the construction of a new carpark on Treetop Court will also improve accessibility to the walking trails along the Little Para River.

Item 4.1.5

Item 3.1.9 - Attachment 2 - Section 270 Report Appendices

4.1.5 Letter to MP Brown outlining available parking options within Boardwalk development



City of Salisbury
 ABN 82 615 416 635
 44 Church Street
 PO Box 2
 Salisbury SA 5098
 Australia

Telephone 08 8496 3222
 Facsimile 08 8281 5166
 info@salisbury.sa.gov.au
 www.salisbury.sa.gov.au

4 March 2021

Mr M Brown MP
 Member for Playford
 Unit 1 / 3 Wilkinson Road
 PARA HILLS SA 5096

Dear Mr Brown MP

Re: Carparking Availability

Thank you for your letter received on 18th February 2021 regarding parking concerns along Wildwood Street, Paralowie.

The level of car parking provided in the area was considered during the design and development of the estate. The project provided a mix of market and affordable housing, with some key design and development considerations including:

- a significant extent of one-sided road in order to maximise views into the open space, which has the added benefit of providing significant lengths of kerbside parking, uninterrupted by driveways, and available for on-street car parking;
- apart from Chesser Lane which has been designed around a specific housing type, all other roads achieve a standard width, facilitating parking on both sides of the road; and
- affordable and first home buyer housing generally having a lower level of car ownership.

Planning guidelines do not guarantee that an on-street parking space is available in front of every allotment. For most, but not all, housing types, there is a planning policy requirement for two on-site parking spaces, one of which may be in the driveway in front of a garage/carport. Whilst residents may not necessarily be able to park a second car directly in front of their residence there are opportunities to park on the one sided roads along Boardwalk Drive where development is on one side, and there are approximately 20-30 on street parking spaces surrounding Ms Haines residence.

Yellow lines are used to designate no standing areas required for safety and/or access reasons.

Accordingly, changes to current on-street parking arrangements within this locality are not proposed at this time, and it is requested that residents park in accordance with the road rules to ensure public safety and safe traffic and pedestrian movements and access.

A schematic is attached for your reference providing an indication of the primary areas of available on street parking, as highlighted by a blue line.

Item 4.1.5 - Attachment 1 - Letter to MP Brown outlining available parking options within Boardwalk development

Item 3.1.9 - Attachment 2 - Section 270 Report Appendices

4.1.5 Letter to MP Brown outlining available parking options within Boardwalk development

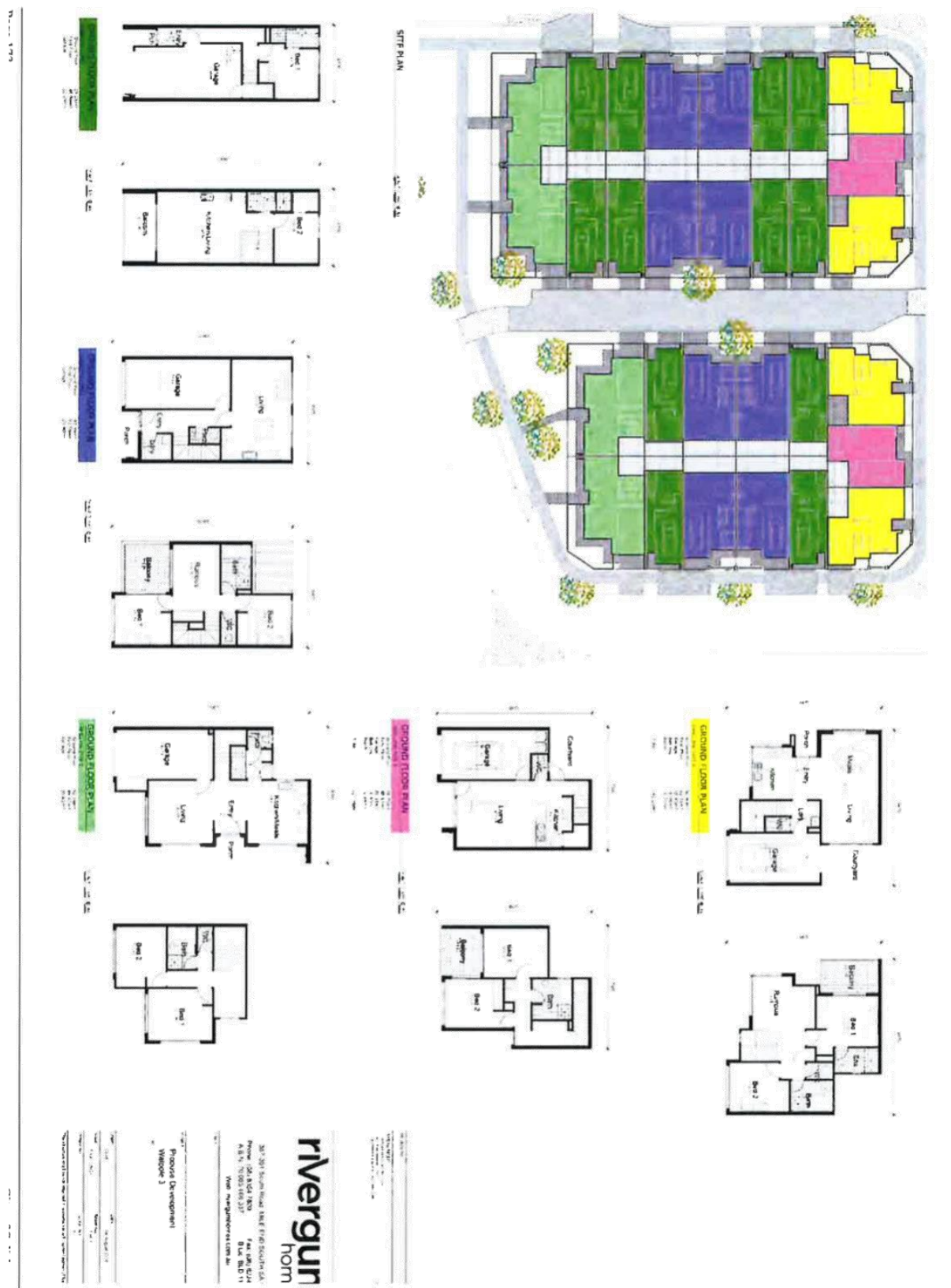


If you have any further queries, please do not hesitate to contact Mr John Darzanos, Manager Environmental Health and Safety on 8406 8222.

Yours faithfully

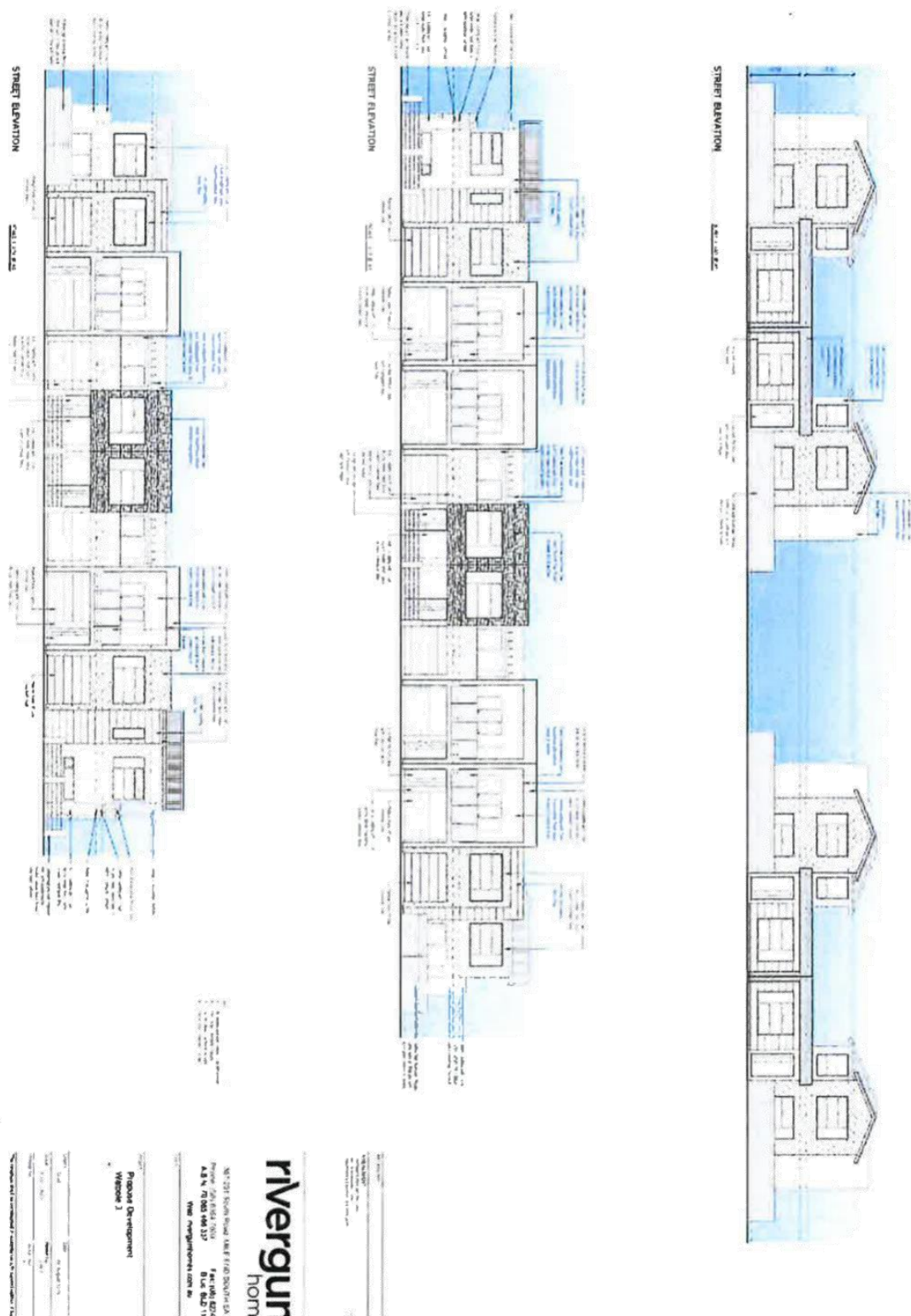
John Harry
Chief Executive Officer
Phone: 08 8406 8212
Email: jharry@salisbury.sa.gov.au

2 of 2



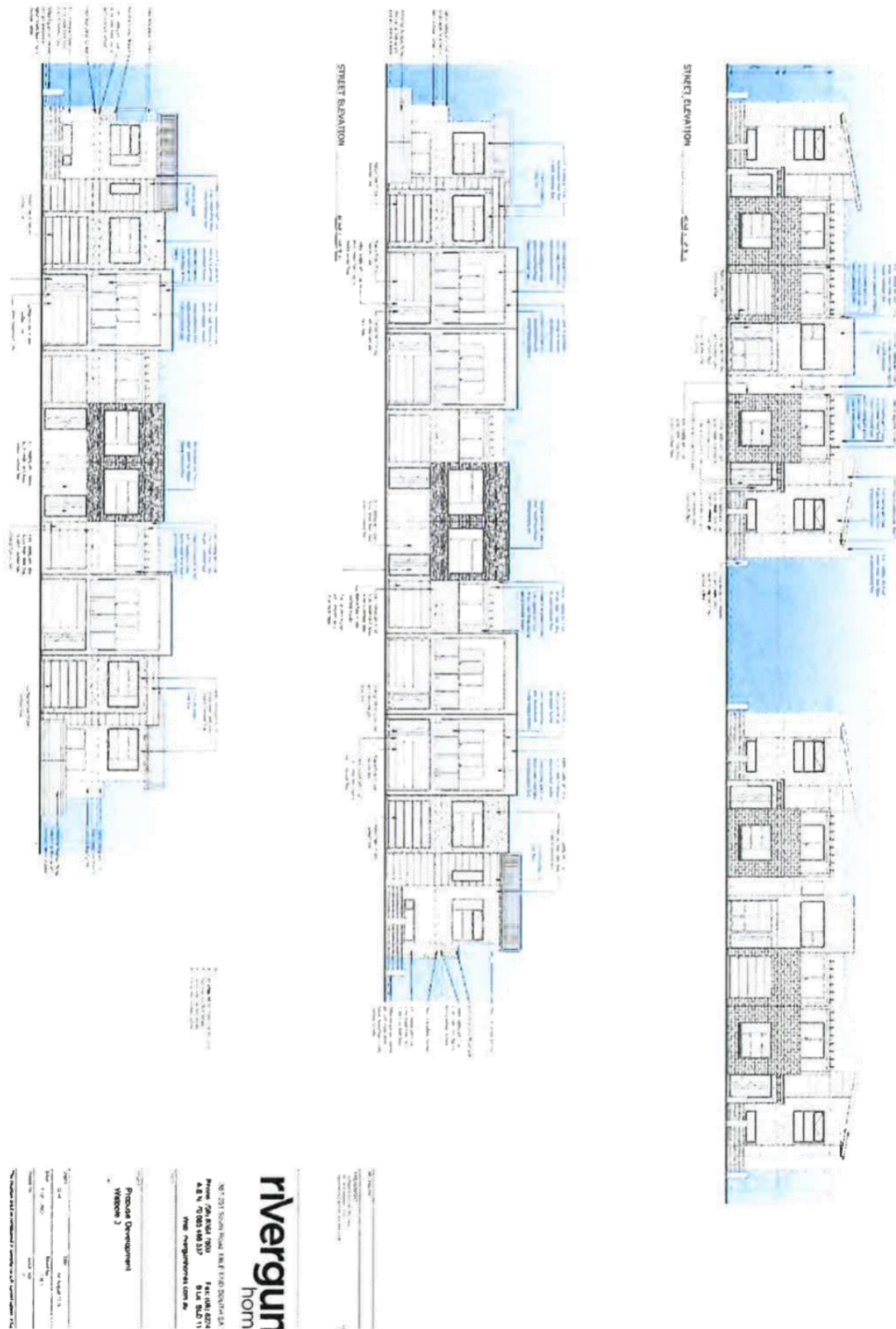
Item 4.1.5 - Attachment 2 - Jewel Living Site Plan and Elevations

Drawn 174



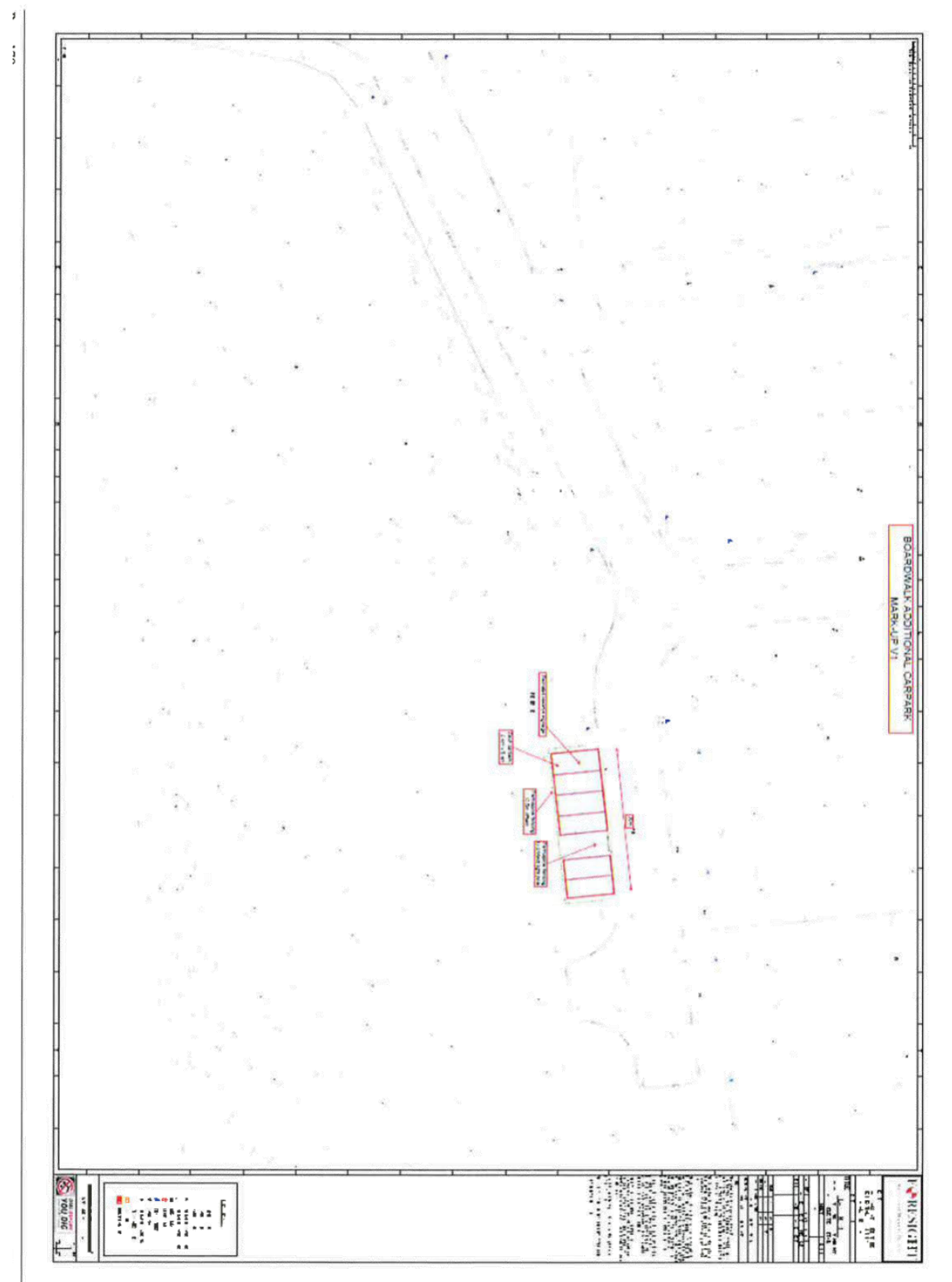
Item 4.1.5 - Attachment 2 - Jewel Living Site Plan and Elevations

Drawn: 17/2





Item 4.1.5 - Attachment 3 - Map of Parking within Boardwalk at Greentree Masterplan

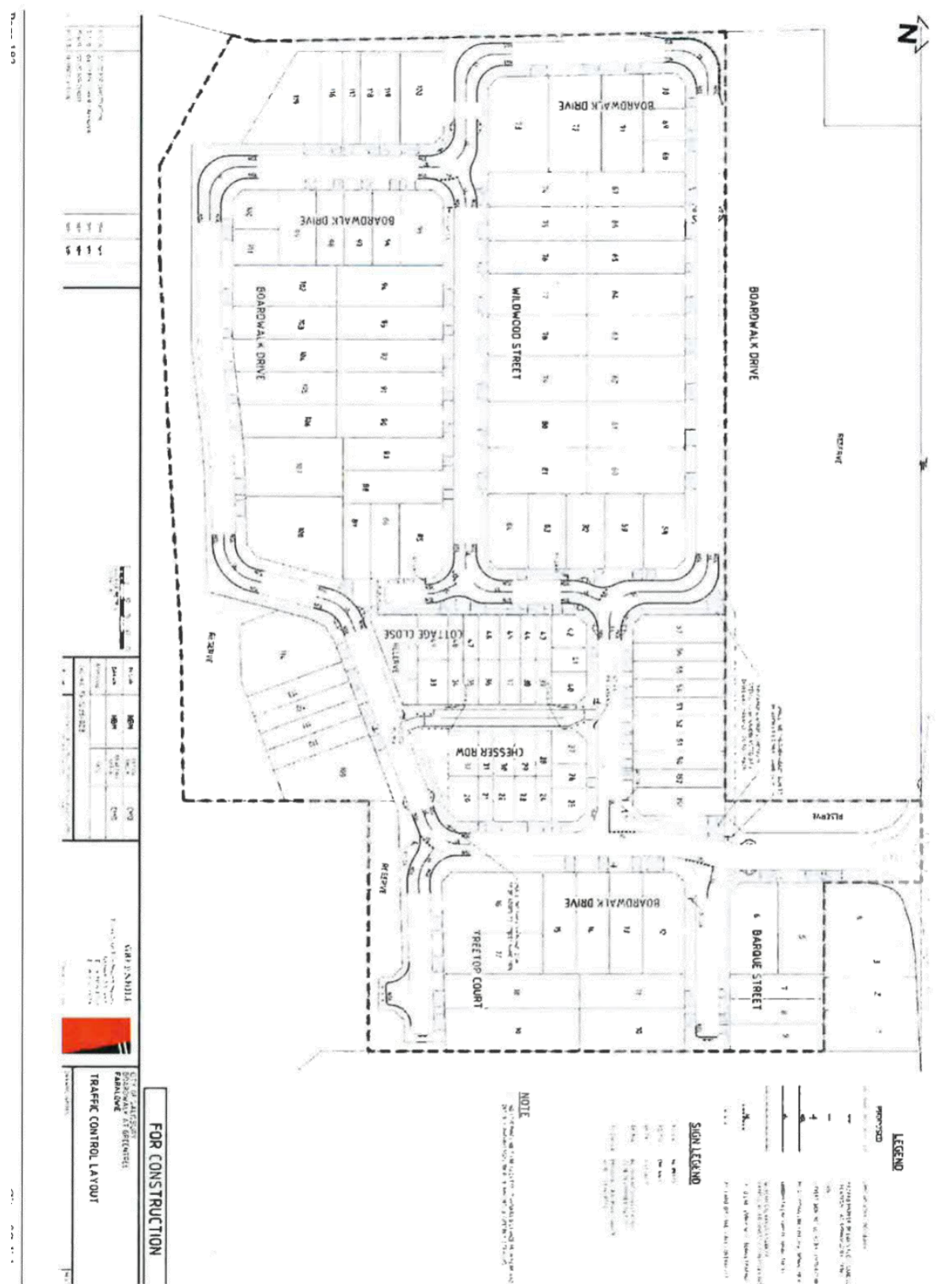


Item 4.1.5 - Attachment 4 - Option 2 - Boardwalk Additional Parking (2)

Drawn: 101



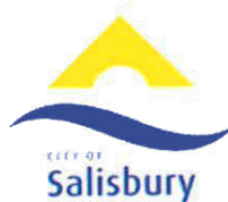
Item 4.1.5 - Attachment 5 - Option 3 - Boardwalk Additional Parking (12)



Item 4.1.5 - Attachment 6 - Boardwalk Traffic Control Layout Plan

Kelley Jones

APPENDIX 8



**MINUTES OF COUNCIL MEETING HELD IN THE COUNCIL CHAMBER,
34 CHURCH STREET, SALISBURY ON**

26 APRIL 2022

MEMBERS PRESENT

Mayor G Aldridge
Cr M Blackmore
Cr L Braun
Cr B Brug (*from 6.33 pm*)
Deputy Mayor, Cr C Buchanan (*via Teams VC*)
Cr A Duncan
Cr K Grenfell
Cr D Hood
Cr P Jensen (*from 6.37 pm*)
Cr S Ouk
Cr D Proleta
Cr S Reardon
Cr G Reynolds
Cr J Woodman

STAFF

Chief Executive Officer, Mr J Harry
General Manager Business Excellence, Mr C Mansueto
General Manager City Infrastructure, Mr J Devine
General Manager Community Development, Mrs A Pokoney Cramey
General Manager City Development, Ms M English
A/Manager Governance, Mr B Kahland
Governance Support Officer, Ms K Boyd

The meeting commenced at 6.30 pm.

OPENING PRAYER AND WELCOME

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

The Mayor read the Kaurna Acknowledgement.

The Chief Executive Officer read the Opening Prayer.

APOLOGIES

An apology was received from Cr N Henningsen.

LEAVE OF ABSENCE

Nil

PUBLIC QUESTION TIME

The Mayor advised there were no questions received for Public Question Time.

DEPUTATIONS / PRESENTATIONS

There were no Deputations or Presentations.

PRESENTATION OF MINUTES

Moved Cr K Grenfell

Seconded Cr L Braun

The Minutes of the Council Meeting held on 28 March 2022, be taken as read and confirmed.

CARRIED
1308/2022

PETITIONS

No Petitions were received.

4 Urban Services Committee Meeting

Moved Cr S Reardon
Seconded Cr D Hood

That Council:

Adopts the recommendations of the Urban Services Committee Meeting held on 19 April 2022, listed below, with the exception of items:

- 4.1.1 Revocation of Community Land Classification Venlo Court Reserve**
- 4.1.2 Resident Applications for Installation of Yellow No-Parking Lines**
- 4.1.4 Synthetic Pitches - Increased Participation in Football**
- 4.1.5 Boardwalk Carparking Investigation**
- 4.1.6 Verge Contract Renewal**
- MWON1 Footpath on Hemming Street, Parafield Gardens**

which were withdrawn to be considered separately.

CARRIED
1312/2022

Administration**4.0.1 Recommendations of the Asset Management Sub Committee meeting held on Monday 11 April 2022**

Moved Cr S Reardon
Seconded Cr D Hood

That Council:

Receives and notes the information contained in the Asset Management Sub Committee Minutes of the meeting held on 11 April 2022, with respect to the following recommendations contained therein to be adopted by Council:

CARRIED
1312/2022

4.0.1-AMSC1 Future Reports for the Asset Management Sub Committee

Moved Cr S Reardon
Seconded Cr D Hood

That Council:

1. Notes the report.

CARRIED
1312/2022

4.0.1-AMSC2 Strategic Asset Management Plan - Building Assets - Building Types

Moved Cr S Reardon
Seconded Cr D Hood

That Council:

1. Notes the list of building assets and what building types category they are in.

CARRIED
1312/2022

4.0.1-AMSC3 Strategic Asset Management Plan - Road Assets - Road Classifications and Hierarchies

Moved Cr S Reardon
Seconded Cr D Hood

That Council:

1. Notes the report and attachment.

CARRIED
1312/2022

4.0.1-AMSC4 Interim Strategic Asset Management Plan

Moved Cr S Reardon
Seconded Cr D Hood

That Council:

1. Approves the *Interim* Strategic Asset Management Plan included in Attachment 1 (Asset Management Sub Committee – 11 April 2022 – Item AMSC4FI – Interim Strategic Asset Management Plan considered at the Urban Services Committee on Tuesday, 19 April 2022) for the purpose of public consultation, as part of Council's 2022/2023 Strategic Papers.
2. Notes that a *Revised* Strategic Asset Management Plan is being developed and will be submitted to Council for review as part of the 2023/24 Strategic Papers.

CARRIED
1312/2022

4.0.2 Recommendations of the Tree Management Appeals Sub Committee meeting held on Monday 11 April 2022

Moved Cr S Reardon
Seconded Cr D Hood

That Council:

Receives and notes the information contained in the Tree Management Appeals Sub Committee Minutes of the meeting held on 11 April 2022, with respect to the following recommendations contained therein to be adopted by Council:

CARRIED
1312/2022

4.0.2-TMASC2 Tree Removal Requests - Monthly Update for February 2022

Moved Cr S Reardon
Seconded Cr D Hood

That Council:

1. Notes the report.

CARRIED
1312/2022

4.0.3 Future Reports for the Urban Services Committee

Moved Cr S Reardon
Seconded Cr D Hood

That Council:

1. Notes the report.

CARRIED
1312/2022

4.1.3 Capital Works Program Monthly Report - March 2022 Update

Moved Cr S Reardon
 Seconded Cr D Hood

That Council:

1. Approves the Non-discretionary transfer of \$35k from PR25058 Paddocks Master Plan to PR25026 Dogs Parks for Small Dogs to enable the award (inclusive of an allowance for contingency) and delivery of the new dog park for small dogs at The Paddocks, with this transfer to be included within the 2021/22 Third Quarter Budget Review.
2. Approves the Non-discretionary transfer of \$150k from PR23921 Salisbury Oval Master Plan to PR26080 LRCI, Phase 3, to enable the delivery of the community indoor cricket training facility, with this transfer to be included within the 2021/22 Third Quarter Budget Review.
3. Approves the Non-discretionary operating budget allocation of \$92k to cover the 20% increase in concrete and kerbing associated expenses to enable continuity of service for the community for GL821 Kerbing Maintenance & GL825 Footpath Maintenance.

CARRIED
1312/2022

4.2.1 Traffic Management Treatments Update - Beechwood Avenue

Moved Cr S Reardon
 Seconded Cr D Hood

That Council:

1. Notes the completion of the minor works at the Modified T-Junction Treatment on Beechwood Avenue
2. Notes the average traffic speeds on Beechwood Avenue extension are low at 32km/h (85 percentile)
3. Notes the consultation has been undertaken with the Ward Councillors, the State Member of Parliament for the Electorate of Florey, and a small number of residents of Beechwood Avenue at Mawson Lakes, has confirmed no additional requests for works were received.
4. Notes that due to a few truck drivers disregarding the "No Truck" signs, Council will make the signs more visible and make it more difficult for trucks to use the driveway link, with minor works to be completed after Easter.

CARRIED
1312/2022

The meeting then proceeded to discuss items 4.1.1, 4.1.2, 4.1.4, 4.1.5, 4.1.6 and MWON which were withdrawn to be considered separately.

4.1.1 Revocation of Community Land Classification Venlo Court Reserve

Moved Cr S Ouk

Seconded Cr K Grenfell

That Council:

1. Notes that a community forum was undertaken on Tuesday the 1st of March 2022 and the outcome of that forum is as documented in Attachment 1 of this report (Item 4.1.1 Revocation of Community Land Classification Venlo Court Reserve – Urban Services Committee, 19 April 2022).
2. Notes the submissions received in response to Council's public consultation summarised in section 3.3 and documented in Attachment 2 of this report (Item 4.1.1 - Revocation of Community Land Classification Venlo Court Reserve - Urban Services Committee, 19 April 2022).
3. Notes the comments in response to the issues raised within the submissions summarised in section 3.4 and documented in Attachment 2 of this report (Item 4.1.1 -Revocation of Community Land Classification Venlo Court Reserve - Urban Services Committee, 19 April 2022).
4. Approves that the land delineated in Attachment 3 of this report (Item 4.1.1 - Revocation of Community Land Classification Venlo Court Reserve - Urban Services Committee, 19 April 2022) described as portion of Allotment 56 in Deposited Plan 11139 known as Venlo Court Reserve be declared surplus to Council's requirements.
5. Notes that the required public consultation requirements of the *Local Government Act 1999* have been complied with and submissions addressed.
6. Authorises the Manager Property and Buildings to proceed with the revocation process and prepare and submit the necessary report and related documentation to the Minister for approval pursuant to Section 194 (3) of the *Local Government Act 1999*.
7. Upon Council's endorsement of the above recommendations and compliance with all legislative requirements necessary to facilitate the revocation of classification of community land, Council dispose of the subject land for a financial consideration as determined by an independent licenced Valuer, with all costs associated being the full responsibility of Thomas More College as the applicant.

8. As part of any sale agreement with the school, it is required that specific initiatives be provided by the school which address matters raised through the community consultation and outlined in Section 3.4 of this report (Item 4.1.1 – Revocation of Community Land Classification Venlo Court Reserve – Urban Services Committee, 19 April 2022). These measures include an encumbrance on the property stating no buildings will be constructed within 10 metres of an adjoining residential boundary fence, installation of landscaping and appropriate boundary treatments to address loss of vegetation and visual amenity at the boundary interface. The school will work with the School community and Council to address parking and traffic concerns within the surrounds and streets.
9. All proceeds from the land sale go towards school transport framework related improvements at Thomas More College and Salisbury East High, with the remaining balance to contribute to other priority school transport related improvements.

CARRIED
1313/2022

Cr D Hood requested that the Minutes show that he voted AGAINST the MOTION.

4.1.2 Resident Applications for Installation of Yellow No-Parking Lines

Cr P Jensen entered the meeting at 6.37 pm.

Moved Cr C Buchanan

Seconded Cr D Hood

That Council:

1. Notes that the existing process to manage requests for yellow no parking lines is consistent with Australian Road Rules, and utilises a suite of traffic management guidelines.
2. Endorses the continuation of the existing process to manage resident requests for the installation of yellow no parking lines.
3. That the Standard Operation Procedure be emailed to Elected Members for information.
4. Staff amend the parking brochure to include information advising the residents to contact Council regarding street parking issues and the provision of yellow lines.

CARRIED
1314/2022

4.1.4 Synthetic Pitches - Increased Participation in Football

Moved Cr G Reynolds
 Seconded Cr D Hood

That Council:

1. Notes that the use of a synthetic turf on football fields, compared to 20 hours of usage for natural turf:
 - a. Can provide up to 60 hours of usage per week.
 - b. When considering typical program timing at facilities with artificial lighting, is likely to offer 40 hours of 'real world' usage per week.
2. Notes that when comparing whole of life costs, a synthetic pitch has a cost range of \$165 to \$225 per participation hour compared to a natural pitch of \$121 to \$175 per participation hour. This means that a synthetic pitch would need to be utilised between 50 to 55 hours per week to be considered financially comparable with a natural turf pitch.
3. The use of synthetic pitches at existing sites may provide an opportunity to maximise existing on-site infrastructure such as spectator seating, changerooms and perimeter fencing. This may negate the need (and additional cost) to duplicate this infrastructure to support the development of a new pitch at an alternate site that did not have this infrastructure if this was the preferred option to support a clubs expansion.

CARRIED
1315/2022

4.1.5 Boardwalk Carparking Investigation

Moved Cr C Buchanan
 Seconded Cr D Proleta

That Council:

1. Approves the Administration organising for the reinstatement of parking signage within Chesser Row at a cost of \$1500.
2. Approves the Administration sending out an educational pamphlet to residents within the Boardwalk development that outlines the availability of car parking and a reminder on parking rules.
3. Approves the construction of a twelve-bay car park in Treetop Court as per Attachment 5 – Option 3 Boardwalk Additional Parking (12) (Urban Services, 19th April 2022, Item No: 4.1.5.)

4. Notes that expenditure of approximately \$50,000 will be required to undertake the construction of the twelve-car park off Treetop Court, subject to detailed design and costing, and that this expenditure will be included as a budget bid for the financial year 2022/23.
5. That staff give further consideration to additional car parking opportunities in the Boardwalk Estate including along Greentree Boulevard.

CARRIED
1316/2022

4.1.6 Verge Contract Renewal

Moved Cr C Buchanan

Seconded Cr P Jensen

That Council:

1. Approves the modified verge maintenance service levels as adopted at the March 2021 Council meeting and summarised in the table below, for tendering the renewal of the verge maintenance contracts:

Service Area	Summary Service Level
Cutting Cycle	6 week cut followed by cycles @ 8,6,6,4,4,8 - week periods – a total of 7 cuts Max 2 days inclement weather allowance per cycle Provision for an 8 th cut if necessary to combat additional growth
Cutting Quality	50mm height, neat, even, sharp cut Rear discharge mowing decks
Weed Control	Two broadleaf treatments to all verges each year, nominally in May and September for spring growth Footpath weed treatment each cycle (Note - caltrop and other weed treatments service in weed control contract)
Edging	Herbicide edging main roads Mechanical edging residential streets
Litter	Collection and disposal of loose litter each cycle Reporting of illegally dumped rubbish
Debris and Green Waste	Blow down of all hard surfaces same day as cutting prior to sweeping Branches <100mm diameter removed Large green waste (bark) removed
Bins	Program scheduled to minimise bin interactions

Street Sweeping	Within 24 hours (aiming for most same day)
Do Not Cut Properties	Maintaining register and kerb marking to identify
Parked Vehicles	Carefully cutting past any parked vehicles
Landscaped Verges	Not treated – service is to un-kept, undeveloped verges
Medians on DPTI roads	Excluded – not Council asset and serviced by DPTI
Country roads	Excluded – these are serviced by Council's tractor team

2. Council provides a capability to respond to CRM's within 10 days related to fast growing verges or verge "hot spots", either through the contract specification or internally, and this service measure to be included in Council's Service Charter.
3. Council undertakes daily supervision of the verge cutting contract to ensure contract specifications are being met.

CARRIED
1317/2022

MWON1 Footpath on Hemming Street, Parafield Gardens

Moved Cr S Ouk
Seconded Cr K Grenfell

That Council:

1. That a report be brought back to Asset Management Sub Committee in May 2022 regarding repairing the footpath on Hemming Street, Parafield Gardens, addressing the root cause of the irregular paving.

CARRIED
1318/2022

Confidential

Refer to CONFIDENTIAL ITEMS section of Council Minutes

4.4.1 Kimba Road Reseal - Technical Report

4.4.2 Acquisition of Surplus SA Water Land at Bolivar

4.4.3 Reg Groth Reserve, Parafield Gardens - Building Renewal - Request for Additional Funding



AGENDA

FOR COUNCIL MEETING TO BE HELD ON

26 APRIL 2022 AT 6.30 PM

IN THE COUNCIL CHAMBER, 34 CHURCH STREET, SALISBURY

MEMBERS

Mayor G Aldridge
Cr M Blackmore
Cr L Braun
Cr B Brug
Cr C Buchanan (Deputy Mayor)
Cr A Duncan
Cr K Grenfell
Cr N Henningsen
Cr D Hood
Cr P Jensen
Cr S Ouk
Cr D Proleta
Cr S Reardon
Cr G Reynolds
Cr J Woodman

REQUIRED STAFF

Chief Executive Officer, Mr J Harry
General Manager Business Excellence, Mr C Mansueto
General Manager City Infrastructure, Mr J Devine
General Manager Community Development, Mrs A Pokoney Cramey
General Manager City Development, Ms M English
A/Manager Governance, Mr B Kahland
Governance Support Officer, Ms K Boyd

Agenda - Council Meeting - 26 April 2022

Item 3.1.9 - Attachment 2 - Section 270 Report Appendices

This page was intentionally blank on the original document.

Agenda - Council Meeting - 26 April 2022

Item 3.1.9 - Attachment 2 - Section 270 Report Appendices

Council Meeting: 26 April 2022

Index

Kaurna Acknowledgement	p9
Prayer	p9
Apologies	p9
Leave of Absence	p9
Public Question Time	p9
Deputations / Presentations	p9
<i>There are no Deputations or Presentations.</i>	
Presentation of Minutes	p9
Presentation of the Minutes of the Council meeting held 28 March 2022 <i>(see p.49)</i>	
Petitions	p9
<i>No Petitions have been received.</i>	

Agenda - Council Meeting - 26 April 2022

Item 3.1.9 - Attachment 2 - Section 270 Report Appendices

Committee Reports	p11
Policy and Planning Committee: 19 April 2022	p11
Chair: Cr C Buchanan	
1.0.1 Future Reports for the Policy and Planning Committee	
1.1.1 Strategic Growth Framework – Waterloo Bolivar – Stakeholder Engagement Plan	
Finance and Corporate Services Committee: 19 April 2022	p12
Acting Chair: Cr P Jensen	
2.0.1 Future Reports for the Finance and Corporate Services Committee	
2.1.1 Public Awareness - Rates Notice Information	
2.1.2 Higher Value Property Review	
2.1.3 Budget Status Update	
2.1.4 Long Term Financial Plan Scenarios and Rate Strategy 2022/23	
2.1.5 Draft 2022/23 Long Term Financial Plan and Annual Business Plan	
Governance and Compliance Committee: 19 April 2022	p17
Acting Chair: Cr S Reardon	
3.0.1 Future Reports for the Governance and Compliance Committee	
Urban Services Committee: 19 April 2022	p18
Chair: Cr L Braun	
4.0.1 Recommendations of the Asset Management Sub Committee meeting held on Monday 11 April 2022:	
AMSC1 Future Reports for the Asset Management Sub Committee	
AMSC2 Strategic Asset Management Plan – Building Assets – Building Types	
AMSC3 Strategic Asset Management Plan – Road Assets – Road Classifications and Hierarchies	
AMSC4 Interim Strategic Asset Management Plan	
4.0.2 Recommendations of the Tree Management Appeals Sub Committee meeting held on Monday 11 April 2022:	
TMASC2 Tree Removal Requests – Monthly Update for February 2022	
4.0.3 Future Reports for the Urban Services Committee	
4.1.1 Revocation of Community Land Classification Venlo Court Reserve	
4.1.2 Resident Applications for Installation of Yellow No-Parking Lines	
4.1.3 Capital Works Program Monthly Report – March 2022 Update	
4.1.4 Synthetic Pitches – Increased Participation in Football	
4.1.5 Boardwalk Carparking Investigation	
4.1.6 Verge Contract Renewal	
4.2.1 Traffic Management Treatments Update – Beechwood Avenue	
MWON1 Footpath on Hemming Street, Parafield Gardens	

Agenda - Council Meeting - 26 April 2022

Item 3.1.9 - Attachment 2 - Section 270 Report Appendices

Community Wellbeing and Sport Committee: 20 April 2022

p25

Chair: Cr A Duncan

- 5.0.1 Future Reports for the Community Wellbeing and Sport Committee
- 5.1.5 Community Wellbeing Indicators and Future Planning
- 5.2.1 Youth Sponsorship Applications – April 2022

For Noting Only – Decisions Under Committee Delegation

- 5.1.1 Grant No. 49/2021-22: Para Hills East Soccer Club Inc. Community Grant Application
- 5.1.2 Grant No. 50/2021-22: Salisbury City Band Community Grant Application
- 5.1.3 Grant No. 51/2021-22: Military Vehicle Preservation Society of SA Inc. Community Grant Application
- 5.1.4 Grant No. 52/2021-22: Salisbury Villa Sports and Social Club Inc. Community Grant Application

Innovation and Business Development Committee: 20 April 2022

p27

Chair: Cr K Grenfell

- 6.0.1 Future Reports for the Innovation and Business Development Committee
- 6.2.1 Community Requests – Response Dashboard

Audit and Risk Committee: 12 April 2022

p28

Chair: Cr G Reynolds

- 7.0.2 Actions List
- 7.1.1 Audit and Risk Committee Annual Work Plan 2022/2023
- 7.1.2 3-Year Internal Audit Plan 2022/23 - 2024/25
- 7.1.3 Internal Audit Report on Capital Works Projects Audit
- 7.1.4 Outstanding Actions Arising from Internal Audits
- 7.1.5 Risk Management and Internal Controls Activities
- 7.1.6 Audit and Risk Committee Performance Self-Assessment Survey Outcome
- 7.1.7 Draft 2022/23 Long Term Financial Plan and Annual Business Plan
- 7.2.1 Interim Strategic Asset Management Plan – Process Review

Council Assessment Panel

Council to note the Minutes of the Council Assessment Panel meeting held on 29 March 2022

CEO Review Committee

There was no CEO Review Committee meeting held in April 2022

General Business Reports **p33**

GB1 Recommendations of the Youth Council Sub Committee meeting held
Tuesday 12 April 2022

p33**Mayor's Diary Report****p39****Reports from Council Representatives****Questions on Notice**

There are no Questions on Notice

Questions Without Notice**Motions on Notice****p41**

MON1 Bus Shelter Funding Program

Motions Without Notice**Other Business****Orders to Exclude the Public****p43****Policy and Planning Committee: 19 April 2022**

Chair: Cr C Buchanan

1.4.1 St Kilda Future Development Opportunities

1.4.2 Thematic Heritage Study – Stage 2 Item Identification

Urban Services Committee: 19 April 2022

Chair: Cr L Braun

4.4.1 Kimba Road Reseal – Technical Report

4.4.2 Acquisition of Surplus SA Water Land at Bolivar

4.4.3 Reg Groth Reserve, Parafield Gardens – Building Renewal – Request for
Additional Funding

General Business

C1 ESCOSA Rate Oversight Scheme Considerations

Confidential Items

Policy and Planning Committee: 19 April 2022

Chair: Cr C Buchanan

1.4.1 St Kilda Future Development Opportunities

1.4.2 Thematic Heritage Study – Stage 2 Item Identification

Urban Services Committee: 19 April 2022

Chair: Cr L Braun

4.4.1 Kimba Road Reseal – Technical Report

4.4.2 Acquisition of Surplus SA Water Land at Bolivar

4.4.3 Reg Groth Reserve, Parafield Gardens – Building Renewal – Request for Additional Funding

General Business

C1 ESCOSA Rate Oversight Scheme Considerations

Agenda - Council Meeting - 26 April 2022

Item 3.1.9 - Attachment 2 - Section 270 Report Appendices

This page was intentionally blank on the original document.

Agenda - Council Meeting - 26 April 2022

Item 3.1.9 - Attachment 2 - Section 270 Report Appendices

4 Urban Services Committee Meeting

Chairman - Cr L Braun

Consideration of the minutes of the Urban Services Committee Meeting - 19 April 2022 and adoption of recommendations in relation to item numbers:

Administration

4.0.1 Recommendations of the Asset Management Sub Committee meeting held on Monday 11 April 2022

It is recommended to Council:

That Council:

1. Receives and notes the information contained in the Asset Management Sub Committee Minutes of the meeting held on 11 April 2022 be received and noted and that the following recommendations contained therein be adopted by Council:

4.0.1-AMSC1 Future Reports for the Asset Management Sub Committee

It is recommended to Council:

That Council:

1. Notes the report.

4.0.1-AMSC2 Strategic Asset Management Plan - Building Assets - Building Types

It is recommended to Council:

That Council:

1. Notes the list of building assets and what building types category they are in.

4.0.1-AMSC3 Strategic Asset Management Plan - Road Assets - Road Classifications and Hierarchies

It is recommended to Council:

That Council:

1. Notes the report and attachment.

4.0.1-AMSC4 Interim Strategic Asset Management Plan

It is recommended to Council:

That Council:

1. Approves the *Interim* Strategic Asset Management Plan included in Attachment 1 (Asset Management Sub Committee – 11 April 2022 – Item AMSC4FI – Interim Strategic Asset Management Plan considered at the Urban Services Committee on Tuesday, 19 April 2022) for the purpose of public consultation, as part of Council's 2022/2023 Strategic Papers.
2. Notes that a *Revised* Strategic Asset Management Plan is being developed and will be submitted to Council for review as part of the 2023/24 Strategic Papers.

4.0.2 Recommendations of the Tree Management Appeals Sub Committee meeting held on Monday 11 April 2022

It is recommended to Council:

That Council:

1. Receives and notes the information contained in the Tree Management Appeals Sub Committee Minutes of the meeting held on 11 April 2022 be received and noted and that the following recommendations contained therein be adopted by Council:

4.0.2-TMASC2 Tree Removal Requests - Monthly Update for February 2022

It is recommended to Council:

That Council:

1. Notes the report.

4.0.3 Future Reports for the Urban Services Committee

It is recommended to Council:

That Council:

1. Notes the report.

For Decision**4.1.1 Revocation of Community Land Classification Venlo Court Reserve**

It is recommended to Council:

That Council:

1. Notes that a community forum was undertaken on Tuesday the 1st of March 2022 and the outcome of that forum is as documented in Attachment 1 of this report (Item 4.1.1 Revocation of Community Land Classification Venlo Court Reserve – Urban Services Committee, 19 April 2022).
2. Notes the submissions received in response to Council’s public consultation summarised in section 3.3 and documented in Attachment 2 of this report (Item 4.1.1 -Revocation of Community Land Classification Venlo Court Reserve - Urban Services Committee, 19 April 2022).
3. Notes the comments in response to the issues raised within the submissions summarised in section 3.4 and documented in Attachment 2 of this report (Item 4.1.1 -Revocation of Community Land Classification Venlo Court Reserve - Urban Services Committee, 19 April 2022).
4. Approves that the land delineated in Attachment 3 of this report (Item 4.1.1 - Revocation of Community Land Classification Venlo Court Reserve - Urban Services Committee, 19 April 2022) described as portion of Allotment 56 in Deposited Plan 11139 known as Venlo Court Reserve be declared surplus to Council’s requirements.
5. Notes that the required public consultation requirements of the *Local Government Act 1999* have been complied with and submissions addressed.
6. Authorises the Manager Property and Buildings to proceed with the revocation process and prepare and submit the necessary report and related documentation to the Minister for approval pursuant to Section 194 (3) of the *Local Government Act 1999*.
7. Upon Council’s endorsement of the above recommendations and compliance with all legislative requirements necessary to facilitate the revocation of classification of community land, Council dispose of the subject land for a financial consideration as determined by an independent licenced Valuer, with all costs associated being the full responsibility of Thomas More College as the applicant.
8. As part of any sale agreement with the school, it is required that specific initiatives be provided by the school which address matters raised through the community consultation and outlined in Section 3.4 of this report (Item 4.1.1 – Revocation of Community Land Classification Venlo Court Reserve – Urban Services Committee, 19 April 2022). These measures include an encumbrance on the property stating no buildings will be constructed within 10 metres of an adjoining residential boundary fence, installation of landscaping and appropriate boundary treatments to address loss of vegetation and visual amenity at the boundary interface. The school will work with the School community and Council to address parking and traffic concerns within the surrounds and streets.

9. All proceeds from the land sale go towards school transport framework related improvements at Thomas More College and Salisbury East High, with the remaining balance to contribute to other priority school transport related improvements.

4.1.2 Resident Applications for Installation of Yellow No-Parking Lines

It is recommended to Council:

That Council:

1. Notes that the existing process to manage requests for yellow no parking lines is consistent with Australian Road Rules, and utilises a suite of traffic management guidelines.
2. Endorses the continuation of the existing process to manage resident requests for the installation of yellow no parking lines.
3. That the Standard Operation Procedure be emailed to Elected Members for information.

4.1.3 Capital Works Program Monthly Report - March 2022 Update

It is recommended to Council:

That Council:

1. Approves the Non-discretionary transfer of \$35k from PR25058 Paddocks Master Plan to PR25026 Dogs Parks for Small Dogs to enable the award (inclusive of an allowance for contingency) and delivery of the new dog park for small dogs at The Paddocks, with this transfer to be included within the 2021/22 Third Quarter Budget Review.
2. Approves the Non-discretionary transfer of \$150k from PR23921 Salisbury Oval Master Plan to PR26080 LRCI, Phase 3, to enable the delivery of the community indoor cricket training facility, with this transfer to be included within the 2021/22 Third Quarter Budget Review.
3. Approves the Non-discretionary operating budget allocation of \$92k to cover the 20% increase in concrete and kerbing associated expenses to enable continuity of service for the community for GL821 Kerbing Maintenance & GL825 Footpath Maintenance.

4.1.4 Synthetic Pitches - Increased Participation in Football

It is recommended to Council:

That Council:

1. Notes that the use of a synthetic turf on football fields, compared to 20 hours of usage for natural turf:
 - a. Can provide up to 60 hours of usage per week.
 - b. When considering typical program timing at facilities with artificial lighting, is likely to offer 40 hours of 'real world' usage per week.
2. Notes that when comparing whole of life costs, a synthetic pitch has a cost range of \$165 to \$225 per participation hour compared to a natural pitch of \$121 to \$175 per participation hour. This means that a synthetic pitch would need to be utilised between 50 to 55 hours per week to be considered financially comparable with a natural turf pitch.

4.1.5 Boardwalk Carparking Investigation

It is recommended to Council:

That Council:

1. Approves the Administration organising for the reinstatement of parking signage within Chesser Row at a cost of \$1500.
2. Approves the Administration sending out an educational pamphlet to residents within the Boardwalk development that outlines the availability of car parking and a reminder on parking rules.
3. Approves the construction of a twelve-bay car park in Treetop Court as per Attachment 5 – Option 3 Boardwalk Additional Parking (12) (Urban Services, 19th April 2022, Item No: 4.1.5.)
4. Notes that expenditure of approximately \$50,000 will be required to undertake the construction of the twelve-carpark off Treetop Court, subject to detailed design and costing, and that this expenditure will be included as a budget bid for the financial year 2022/23.
5. That staff give further consideration to additional car parking opportunities in the Boardwalk Estate including along Greentree Boulevard.

4.1.6 Verge Contract Renewal

It is recommended to Council:

That Council:

1. Approves the modified verge maintenance service levels as adopted at the March 2021 Council meeting and summarised in the table below, for tendering the renewal of the verge maintenance contracts:

Service Area	Summary Service Level
Cutting Cycle	6 week cut followed by cycles @ 8,6,6,4,4,8 - week periods – a total of 7 cuts Max 2 days inclement weather allowance per cycle Provision for an 8 th cut if necessary to combat additional growth
Cutting Quality	50mm height, neat, even, sharp cut Rear discharge mowing decks
Weed Control	Two broadleaf treatments to all verges each year, nominally in May and September for spring growth Footpath weed treatment each cycle (Note- caltrop and other weed treatments service in weed control contract)
Edging	Herbicide edging main roads Mechanical edging residential streets
Litter	Collection and disposal of loose litter each cycle Reporting of illegally dumped rubbish
Debris and Green Waste	Blow down of all hard surfaces same day as cutting prior to sweeping Branches <100mm diameter removed Large green waste (bark) removed
Bins	Program scheduled to minimise bin interactions
Street Sweeping	Within 24 hours (aiming for most same day)
Do Not Cut Properties	Maintaining register and kerb marking to identify
Parked Vehicles	Carefully cutting past any parked vehicles
Landscaped Verges	Not treated – service is to un-kept, undeveloped verges
Medians on DPTI roads	Excluded – not Council asset and serviced by DPTI
Country roads	Excluded – these are serviced by Council's tractor team

2. Council provides a capability to respond to CRM's within 10 days related to fast growing verges or verge "hot spots", either through the contract specification or internally, and this service measure to be included in Council's Service Charter.
3. Council undertakes daily supervision of the verge cutting contract to ensure contract specifications are being met.

For Information**4.2.1 Traffic Management Treatments Update - Beechwood Avenue**

It is recommended to Council:

That Council:

1. Notes the completion of the minor works at the Modified T-Junction Treatment on Beechwood Avenue
2. Notes the average traffic speeds on Beechwood Avenue extension are low at 32km/h (85 percentile)
3. Notes the consultation has been undertaken with the Ward Councillors, the State Member of Parliament for the Electorate of Florey, and a small number of residents of Beechwood Avenue at Mawson Lakes, has confirmed no additional requests for works were received.
4. Notes that due to a few truck drivers disregarding the "No Truck" signs, Council will make the signs more visible and make it more difficult for trucks to use the driveway link, with minor works to be completed after Easter.

MWON1 Footpath on Hemming Street, Parafield Gardens

It is recommended to Council:

That Council:

1. That a report be brought back to Asset Management Sub Committee in May 2022 regarding repairing the footpath on Hemming Street, Parafield Gardens, addressing the root cause of the irregular paving.

Confidential

Refer to CONFIDENTIAL ITEMS section of Council Agenda

4.4.1 Kimba Road Reseal - Technical Report**4.4.2 Acquisition of Surplus SA Water Land at Bolivar****4.4.3 Reg Groth Reserve, Parafield Gardens - Building Renewal - Request for Additional Funding**