Tree Management Appeals Sub Committee
- Terms of Reference -

Endorsed by Council: 27 April 2020
(Resolution 0507/2020)

Review Date: November 2022

1. Preamble

1.1 Maintenance of the landscape and trees is an area that attracts a high level of customer enquiries and requests for service to Council, in particular, requests for tree maintenance and tree removal adjacent private properties.

1.2 The Tree Management Appeals Sub Committee (TMASC) has been formed to ensure issues related to the maintenance and removal of street trees and trees that are in a reserve, immediately adjacent private properties, are dealt with consistently across the city.

2. Purpose

2.1 The purpose of the Tree Management Appeals Sub Committee is to:

- provide an avenue of appeal by persons who’s request in relation to tree management and in particular specific tree removal has been refused by Council administration,
- ensure consistent application of tree management decisions by Council and administration in accordance with the Tree Management Policy and Tree Removal Procedure of Council,
- provide advice on replacement tree types where a tree is approved for removal by the Sub Committee or the Council Assessment Panel (CAP),
- exercise delegated authority to make decisions in relation to tree management appeals, with the exception of an appeal involving a tree classified as a ‘Regulated or Significant Tree’ in accordance with the Development Act 1993,
- make recommendations to Council for the lodgement, if appropriate, of a Development Application to the Development Control Unit and subsequently CAP, in cases where an appeal involves a tree classified as a ‘Regulated or Significant Tree’ in accordance with the Development Act 1993.

2.2 The Sub Committee will adopt a risk management focus in its considerations, delivery and recommendations to Council. The advice to Council will reflect both the risk and opportunities of the issue to enable Council to act as an informed and responsible decision maker representing the interests of the community.
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3. **Procedure for Matters to be Heard by Sub Committee**

3.1 Before an appeal is heard by TMASC the following process must be followed:

- an on-site meeting is convened with relevant staff, the person requesting to appeal the administration decision and affected stakeholders (such as but not limited to the property resident/tenant/owner), and Ward Councillors to establish an understanding of the site and relevant issues,
- an independent assessment of the subject tree will be undertaken and presented in a report to a meeting of TMASC, and the author of the independent assessment will be required to attend the meeting of the TMASC when the report is considered.
- where relevant, consultation will occur with the tenant/owner of the property adjacent the tree, when the request for removal has been submitted by a nearby resident,
- where the request for removal of a tree is from a tenant, it will be determined that the owner of the property agrees with removal of the tree and supports the appeal of the decision,
- where a request for appeal is to be submitted to TMASC, the relevant Ward Councillors will be provided an opportunity to make representations to TMASC when the matter is considered,
- where a request for appeal is to be submitted to TMASC, the resident or property owner may nominate a representative for them to attend and advocate on their behalf at a meeting of TMASC; this may be, subject to their agreement, a Ward Councillor, the Deputy Mayor or the Mayor.

4. **Status and Term of the Committee**

4.1 The TMASC is formed under section 41 of the Local Government Act 1999 as a sub committee reporting to the Works and Services Committee for the purpose of making decisions under delegated authority and providing advice to Council, as described in the Purpose above.

4.2 This Sub Committee will exist for the term of the Council.
5. Meeting Frequency and Location

5.1 The Tree Management Appeals Sub Committee will meet as required to assess tree management appeals.

5.2 Meetings of the Sub Committee will be held in the Committee Rooms, 34 Church Street, Salisbury.

5.3 In accordance with section 87 of the Local Government Act 1999, a minimum of three clear days’ notice of an ordinary meeting will be provided to members of the Sub Committee.

5.4 In the event that Monday is a public holiday, the meeting will convene on the Tuesday of the same week.

5.5 Public notice of meetings will be given through publication of the annual meeting schedule on the City of Salisbury website. A copy of the Notice of Meeting and Sub Committee Agenda will also be displayed at 12 James Street Salisbury.

5.6 Members of the public are able to attend all meetings of the Sub Committee, unless prohibited by resolution of the Sub Committee under the confidentiality provisions of section 90 of the Local Government Act.

6. Membership

6.1 The membership of the TMASC will comprise five (5) Elected Members as nominated by Council.

6.2 All members must attend meetings and where unable to do so, must provide an apology prior to the meeting. Where possible advice of an apology should be provided direct to the Chair of TMASC.

6.3 Ward Councillors are invited to attend for matters to be considered that are in their ward and may request to address TMASC on the matter, but are not voting members.

6.4 Members of the Sub Committee must comply with the conduct and conflict of interest provisions of the Local Government Act 1999. In particular, sections 62 (general duties), 63 (code of conduct) and 73-74 (conflict of interest, members to disclose interests) must be adhered to.
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6.5 Members of the administration, including but not limited to the General Manager City Development and General Manager City Infrastructure, who are required to attend meetings of TMASC will do so in an advisory capacity only.

7. Chairman and Deputy Chairman

7.1 The appointment of a Chairman will be made by the Council for a term determined by the Council.

7.2 The Deputy Chairman will be appointed at the first meeting of the Sub Committee for a term determined by the Sub Committee.

8. Voting Rights

8.1 All members have equal voting rights.

A question arising for a decision will be decided by a majority of votes cast by all members present.

8.2 Each member must vote on a question arising for a decision unless a conflict of interest is declared where the member is excused from the vote.

8.3 The Chairman has a deliberative vote, but does not, in the event of an equality of votes have a casting vote.

8.4 An appeal will only be upheld where there is a majority vote to do so by the Tree Management Appeals Sub Committee. Where the vote is tied the appeal is dismissed and the original decision of Council staff will stand.

8.5 The ability of a resident or property owner to seek review of a decision of Council in accordance with section 270 of the Local Government Act 1999 is not affected by any decision of the TMASC.
9. **Meeting Procedures, Minutes and Documents**

9.1 All meetings of the Tree Management Appeals Sub Committee will be held in accordance with the:
- Local Government Act 1999,
- Local Government (Procedures at Meetings) Regulations 2013,
- the City of Salisbury Code of Practice for Meeting Procedures and Access to Meetings and Documents.

9.2 Minutes will be kept of the proceedings at each Sub Committee meeting. Members of Council will be provided with a copy of all minutes of the proceedings of this Sub Committee within five days after a meeting.

9.3 Members of the public have access to all documents relating to the Sub Committee unless prohibited by resolution of the Committee under the confidentiality provisions of section 91 of the *Local Government Act 1999*.

10. **Quorum**

10.1 A quorum shall be determined by dividing the total number of members of the committee by two (ignoring any fractions) and adding one. For a committee comprising 5 members, the quorum is 3 (that is, 5 divided by 2 = 2.5 (ignoring any fractions) = 2 + 1).

11. **Reporting Requirements**

11.1 This Sub Committee reports to the Works and Services Committee.

11.2 The Sub Committee shall make whatever recommendations to the parent committee it deems appropriate on any area within its Terms of Reference where in its view action or improvement is needed.

11.3 Recommendations made by the Sub Committee will be referred to the next scheduled meeting of the parent committee, and through presentation of recommendations to Council for final resolution.

12. **Review Process**

12.1 A review of the Sub Committee will be bi-annually.
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