ATTACHMENTS TO FUTURE DECISION REPORTS

COUNCIL MEETING

TUESDAY 26 NOVEMBER 2019

Item 11.1 Manson Oval Tennis Court Resurface and Court Lighting
Attachment A Manson Oval Master Plan ................................................................. 3
Attachment B Council In Principle Project Support and Landlord Approval 4
Attachment C Bellevue Heights Tennis Club Court Resurface and Lighting Proposal................................................................. 6

Item 11.2 Independent Review of a Decision Policy (s270), Request for Service and Unreasonable Complaints and Requests Policies
Attachment A NEW Draft Request for Service Policy ........................................... 9
Attachment B Independent Review of a Decision Policy ..................................... 15
Attachment C NEW Draft Unreasonable Complaints and Requests Policy 44

Item 11.4 Cities Power Partnership
Item 11.5  Tennis Club signage / Denman Tennis Club
Attachment A  Denman Tennis Club, ball stop netting ……………………63
Attachment B  Hopeward, Blackwood and Kingswood tennis clubs, ball stop netting ……………………………………….64

Item 11.6  Lot 6 (No.9) Arcadia Court, Mitcham - Waiver to Land Management Agreement
Attachment A  Copy of proposal plans ……………………………………67
Attachment B  Copy of Land Management Agreement ………………….79
Manson Oval Masterplan

For the City of Mitcham

LEGEND

1. General Use Building Facility
   - New facility upgrade, 20ha 11c, mtg, alh, ski, fcl, mcm, hall, hcp, dpe, p, c, la, spa, l, f, la, spa, p, c, la, spa, p

2. Oval
   - New & enhanced design to accommodate football (11 and 9 a side) pitches
   - New marshalled and recycled surface
   - APS goals, posts, return
   - Upgrade irrigation system to bring to the oval
   - New flood lights and pathway for minor, local purposes

3. Tennis Courts
   - Upgrading of tennis courts, 11a and 9a courts in each corner of the oval
   - New flood lights suitable for training level activities

4. Carparking
   - New in-dented arc car parking in dugout Parade
   -chester, mcl, ar

All of Mitcham Master Plan are indicative only and are subject to further design & consultation through the relevant planning and building approval processes.
Local Government name: City of Milcham
Grant applicant name: Bellevue Heights Tennis Club
Project name: Tennis Court re-construction and lighting project Stage 2/3
Project Location: Manson Oval, Sargent Parade, Bellevue Heights
Land Title Status: Community Land

Statement of Consent/Support

City of Milcham gives:

- Consent for the project (only applicable for land/asset owner)
- Support for the project

In addition we will provide the following support:

☐ An in-kind contribution  Estimated Value: $     
☐ A financial contribution  Value: $110,000* explained below
☐ No in-kind or financial contribution will be provided

Are there any conditions or requirements attached to your support of the project? (e.g. subject to future budget approvals)

Subject to Development Approval. Milcham Council is working with Bellevue Heights Tennis Club and Tennis SA towards a re-development of the 4 tennis and 2 adjacent council courts at Monson Oval facilities located on Sargent Parade, Bellevue Heights. This application by BHTC is seeking council contribution of $75,000 towards Stage 2 and $35,000 towards stage 3. The Master plan for the site endorsed on 24 October 2017 supports the upgrade of courts and installation of new floodlighting. Stage 1 will be completed by the end of financial year 30 June 2018.

What level of planning has been undertaken for this project? Please reference the title of specific planning document(s). (e.g. Masterplan, Concept Plan, Business Case)

Manson Oval Master Plan - endorsed by Council 24 October 2017
City of Milcham Sports Facilities Strategy

Please indicate if the proposed project will support local, regional, national or state level activities:

☐ National / State  ☐ Regional  ☑ Local (Community)

Is there a community asset management plan for this site/reserve?

☑ Yes  ☐ No
How does the proposed project meet the standards of your organisation? (e.g. preferred facility guidelines)

Manson Oval Master Plan - endorsed by Council 24 October 2017
City of Mitcham Sports Facilities Strategy

What impact(s) would the project have on your organisation and local community?

Mitcham Council is working with Bellevue Heights Tennis Club and Tennis SA towards a redevelopment of the 4 tennis and 2 adjacent council courts at Monson Oval facilities located on Sargent Parade, Bellevue Heights.
This application by BHTC is seeking council contribution of $75,000 towards Stage 2 and $35,000 towards stage 3. The funding for both these stages has not been allocated in the forthcoming budget of 2019/20, and will be subject to council consideration for inclusion in the 2019/20 budget process.
The Master plan for the site endorsed on 24 October 2017 supports the upgrade of courts and installation of new floodlighting.

Any additional comments

Authorisation

I am authorised to complete this document on behalf of City of Mitcham

Signature: [Signature]
Name: Kate O'Neill
Position: General Manager, Organisational and Community Development
Contact Details: Phone: 8372 8121 Email: konell@mitchamcouncil.sa.gov.au
Manson Oval - BHTC Tennis Courts reconstruction Project

**Background Information**

There is an urgent need to rebuild the 4 Bellevue Heights Tennis Club (BHTC) tennis courts as the court surfaces are now in a very poor condition. The natural ground underlying the courts is clay based, and the original base construction was not adequately prepared for these clay conditions. The court surfaces are in poor condition however a resurfacing of the courts can only be done once new court sub-bases are properly re-constructed. The courts located at Sargent Parade Bellevue Heights are the Club’s primary courts for playing junior and senior competitive tennis matches (for Southern District Tennis Association (SDTA) and Glenelg District Tennis Association (GDTA) competition matches for both the Summer and Winter tennis seasons), coaching which includes coaching for the adjacent Bellevue Heights Primary School in the ‘Schools Program’, training and is the location for community social tennis matches.

The 4 BHTC tennis courts:

- The court surfaces are reaching a standard where they will no longer be at a level acceptable to meet standards required by Tennis SA, and therefore SDTA and GDTA for competition tennis matches, could be forced by the Associations to cease on these courts.

- The existing surfaces are starting to break up and this raises public safety concerns.

- The cracking and now poorly adhering surface mean the courts are providing unreliable bounces when hitting some patches of the court surfaces, and District Association competitors have complained about the surface.

- The Club is now seeing the situation where players are leaving the Club to play and be coached at other Clubs due to the poor tennis court surface condition.

These courts have extensive community use for coaching, practice and both Winter and Summer Competition matches, the Bellevue Heights Primary School for teaching/coaching, and the general community public as a whole. The refurbishment of the tennis courts surfaces will improve the attractiveness of the Club facilities which will encourage increased tennis patronage by both genders and all ages within this local community area. The Club is seeking a re-invigoration of the Club with younger players to promote tennis as one of the sports for this local community, and the recent engagement of a new Club Coach has already seen positive results.

The recent Grant submissions have included the installation of LED lights to extend the coaching times available during autumn/winter/spring period as some parents find dropping off the children only possible a bit later at night, and to enable those Club members who are working to be able to undertake more Club practice and/or social tennis.

**BHTC** is a relatively small Club with a long history of being a local Club with a friendly community atmosphere, where residents of all ages learn to play tennis and socialise together. Although the BHTC is a small Club with limited financial resources it has offered a significant financial contribution towards the upgrade of the Tennis Courts. Unfortunately, as the Tennis Courts require a total reconstruction (not just a resurface) due to the inferior base works put down many years ago, our Club cannot possibly afford to fund this Project on its own.
The Way Forward

The City of Mitcham has recognised the importance of the BHTC Tennis Courts, and the required reconstruction of these Tennis Courts with LED lighting is a part of the Council endorsed Manson Oval Master Plan. The BHTC leases the four Tennis Courts and building from the Mitcham Council, as these are Council assets.

The BHTC in consultation with Mitcham Council, Tennis SA and Politicians has been applying for a series of Grants to assist with the funding of these courts.

Council staff involved has included: Kylie Ferguson, Kate O’Neill, Alice Ralph, David Deer and Nicholas Tallarida, and more recently Thuyen Vi-Alternetti. Unfortunately, there has been quite a number of these staff who no longer work at City of Mitcham, and so existing staff have less understanding of the Project.

Council Elected Members involved have included: Mayors Glen Spear and Heather Holmes-Ross, Cr Lindy Taeber, Cr Karen Hockley and Cr Darren Kruse.

The Mitcham Council staff and Elected Members have been very supportive towards a number of Grant Funding application submissions, and has also shown contributory financial support (subject to Council Budget allocation) for the works of $110,000 as per attached, Council Funding Support.PDF.

The most recent Grant Funding application submission has been successful, with a significant financial contribution coming from the Federal Government.

Attached is the Grant Fund submission, Final Community Sports Infrastructure 2018.PDF as well as to sheets showing estimated costs for the Tennis Court works including the LED lighting, SportsDev Project Cost Estimates 05-09-2018.PDF and the estimated costs for a Multicultural, Refugee and Socially disadvantaged/hardship children’s Tennis Programme which was also included in the Grant submission, BHTC Multicultural Inclusion Tennis Programme.PDF.

The funds currently confirmed for the Infrastructure improvements include amounts from:-

<table>
<thead>
<tr>
<th>Bellevue Heights Tennis Club - Infrastructure Improvements Project</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>----------------------</td>
</tr>
<tr>
<td>Sport Australia Grant</td>
</tr>
<tr>
<td>Bellevue Heights Club</td>
</tr>
<tr>
<td>Tennis Australia</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td><strong>TOTALS</strong></td>
</tr>
</tbody>
</table>

It is important to note that this recent Grant submission was made on the basis of informed assessments of the costs to be incurred, however the costs remain estimates only until contracts are awarded.

Note that at this stage although the Tennis Courts are the Mitcham Council's asset, the Council is not shown as contributing funding, however it is hoped Council will provide in-kind support and costs that can be contributed towards any minor shortfall costs, as a part of reconstructing the Council asset.
This is clearly a major Project for the local Tennis Club and the $24,750 amount the Club is contributing will wipe out almost all the Club fund reserves the Club has accumulated over the last 30 years or so. The Club however has made this commitment due to the seriousness of the Tennis courts surface conditions and without this upgrade the Club may have lost all competitive Tennis, and the Club may have been forced to close.

**Proposed Meeting Discussions:**

It is proposed that a meeting is held to assist in the planning to undertake this Project.

Further, the meeting will enable discussions can be held on what in-kind and other financial and other support the Council is prepared to contribute. The Tennis SA representative, Brett Hidson, General Manager - Venues and Government Relations, is seeking another re-assessment of costs to check whether there are any likely cost increases. Tennis SA and the BHTC will ask Council to consider whether contributions it can provide include:

- Council staff providing in-kind support and in particular the undertaking of the Project Manager role, to facilitate the Project, including organising the select tender for works. Tennis SA has indicated this is a normal procedure where Council assets are upgraded.
- Required soil testing to assess the lime stabilisation requirements for treat the sub soils.
- Any survey works and civil design required – fairly basic as it is replacing like for like.
- The LED lighting design and documentation.
- Waiving any normal costs associated with Building and Planning Approvals and Certifications, as this is a Council asset and is part of the Manson Master Plan.
- Other shortfall costs if they occur.
- As BHTC has made such a significant contribution commitment we would ask the Council to consider waiving the BHTC Mitcham Council lease fees for the next 10-15 years in recognition. This will enable the Club to start re-accumulating reserves so the Club can pay for the Tennis Courts resurfacing when it is due again in about 15 years.
[REQUEST FOR SERVICES]

Adopted by Council [insert endorsed date]
# TABLE OF CONTENTS

1. PREAMBLE ................................................................. 3
2. PURPOSE ......................................................................... 3
3. SCOPE ........................................................................... 3
4. DEFINITIONS ................................................................. 3
5. PRINCIPLES .................................................................... 3
6. POLICY STATEMENT ...................................................... 4
7. POLICY REVIEW ........................................................... 5
8. VERSION HISTORY ......................................................... 5
9. DOCUMENT CONTROL ................................................... 5
1. **PREAMBLE**

Local Government delivers an extensive range of services and infrastructure to communities, and discharges obligations under many pieces of legislation. Providing services to the community is a key component of Council's operations and requests for work to be undertaken or a service to be provided are a daily occurrence.

Council is committed to the provision of quality service to customers and aims to provide services fairly and efficiently. It also monitors requests to identify ways in which it can proactively improve its services.

Section 270 of the *Local Government Act 1999* (SA) requires Council to develop and maintain a policy about "any reasonable request for the provision of a service by the Council or for the improvement of a service provided by the Council."

2. **PURPOSE**

The purpose of this policy is to:

- provide guidance on what may constitute a reasonable request for a service or an improvement to a service
- distinguish between requests, complaints and feedback to Council and give direction on management of requests
- establish a standardised process for assessing and processing requests including the collation of information which can be used to directly inform service improvements
- achieve legislative compliance with the *Local Government Act 1999* (SA)

3. **SCOPE**

This policy applies to the City of Mitcham.

4. **DEFINITIONS**

*Business Day* means a day when the Council is normally open for business, i.e. Monday to Friday, excluding public holidays.

*Council* refers to the City of Mitcham.

*Complaint* is an expression of dissatisfaction with a service which has, or should have, been received. Where Council has failed to meet the normal standards for a service which has been, or should have been delivered, the City of Mitcham Complaints Policy and Internal Review of a Decision Policy and their respective associated procedures may apply. Council will deal with a matter as a request for service, rather than a complaint, in the first instance.

*Employee* includes a person employed directly by the Council in a full time, part time or casual capacity (whether 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.

*Request for Service* is an application to have Council or its representative take some form of action to provide or improve a Council service.

5. **PRINCIPLES**

This policy is based on five principles, which will be fundamental in the way Council approaches requests for service, including;
5.1 Fairness: treating customers fairly requires impartiality, confidentiality and transparency at all stages of the process.

5.2 Accessibility: to be accessible there must be broad public awareness about Council’s policy and a range of contact options.

5.3 Responsiveness: this will be achieved by providing sufficient resources, well trained staff and review and improvement of the systems.

5.4 Efficiency: customer requests will be dealt with as quickly as practical while adhering to this policy.

5.5 Integration of different areas of Council where the customer request overlaps functional responsibilities.

In processing requests for service emphasis will be placed on:
- Public safety and emergencies
- Fulfilling Council’s strategic and business plans
- Using Council resources effectively and efficiently
- Guidelines and conditions of externally funded programs (for example: Home and Community Care)

6. POLICY STATEMENT

Requests for service will be assessed in the context of the services and work provided for in the Council’s annual business plan and budget and according to the conditions of externally funded programs. The following statements apply:

6.1 Council will deal with a matter as a request for service, rather than a complaint, in the first instance.

6.2 In determining how to respond to a request for service, Council will consider:
- An assessment of risk,
- Statutory responsibilities,
- The content of Council’s Strategic Management Plans, Annual Business Plans, annual works program and Annual Budget,
- Relevant Council policies and codes,
- Established service standards and response times for regular Council activities.

6.3 Most requests for services fit within well established guidelines which will be explained to an applicant at the outset. Council aims to manage requests efficiently and effectively. Employees are provided with a level of authority to advise applicants of the likely timeframe to complete the action required. Where further evaluation is necessary before committing Council to undertake the work the applicant will be informed accordingly.

If a request cannot be fulfilled in a reasonable timeframe the applicant will be advised, including an explanation of why this decision was taken. Where an applicant is not satisfied with the Council’s decision, it is open to the applicant to lodge a complaint whereby the City of Mitcham’s Complaint Management Policy will apply.

6.4 Timeframes for responses to a request for service will vary depending upon the circumstances of individual requests however, in the majority of cases, will be processed promptly and the applicant advised verbally or by email.
Routine requests (uncollected rubbish bins) will be collected within **72** hours and the assessment of public safety concerns will occur, where practicable, on the same day as the request is received.

Other requests may be best suited to schedule to coincide with work in a particular suburb or season. Examples include tree pruning on council streets and attention to minor drainage problems.

Requests for major works or new services will be referred to council for consideration as part of the next annual cycle of review and public consultation.

Council staff will respond within **5 (five)** business days advising of Council’s intention in relation to the request made.

6.4 A person can make application for a service via one or more of the following:

- Council’s website
- Telephone
- Email
- Letter
- Petition to Council
- In person by visiting a Council customer service office

All requests will be recorded in Council’s records management system in such a way that the information can also be analysed for service improvement opportunities.

6.5 Any rejected requests for services will be recorded and may be reconsidered at a future date, such as in conjunction with the preparation of an Annual Business Plan and associated budget.

7. **POLICY REVIEW**

In order to ensure Council continues to provide the best possible service responses to its customers, this policy will be subject to periodic evaluation, with delegation provided to the CEO to make minor amendments that do not change the intention of the policy. Next review November 2022.

8. **VERSION HISTORY**

<table>
<thead>
<tr>
<th>VERSION</th>
<th>AUTHOR(S) POSITION</th>
<th>CHANGES</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Governance</td>
<td>New policy</td>
<td></td>
</tr>
</tbody>
</table>

9. **DOCUMENT CONTROL**

<table>
<thead>
<tr>
<th>Responsible Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delegations Contained within Policy</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Classification</th>
<th>Choose an Item.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicable legislation</td>
<td>S 270 (a1)(a) Local Government Act 1999 (SA)</td>
</tr>
<tr>
<td>Related Policies &amp; Corporate Documents</td>
<td>City of Mitcham Complaints Policy and associated procedures, City of Mitcham Internal Review of a Decision Policy and associated procedures</td>
</tr>
<tr>
<td><strong>PUBLIC POLICY</strong></td>
<td></td>
</tr>
<tr>
<td>------------------</td>
<td>------------------</td>
</tr>
<tr>
<td><img src="image-url" alt="Table Image" /></td>
<td><img src="image-url" alt="Table Image" /></td>
</tr>
</tbody>
</table>

Additional references
- City of Mitcham Vexatious Complainant Policy and associated procedures
- City of Mitcham Risk Management Policy and associated procedures

<table>
<thead>
<tr>
<th><strong>Endorsed by Council</strong></th>
<th><strong>Click here to enter a date.</strong></th>
<th><strong>Item No:</strong></th>
<th><strong>[Insert item number]</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Effective Date</strong></td>
<td><strong>Click here to enter a date.</strong></td>
<td><strong>Next Review Date:</strong></td>
<td><strong>Click here to enter a date.</strong></td>
</tr>
<tr>
<td><strong>ECM Number</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Independent Review of a Decision Policy

Adopted by Council [9 May 2017 - 10 December 2019]
TABLE OF CONTENTS

1. PREAMBLE ................................................................. 3
2. PURPOSE ............................................................... 4
3. SCOPE ................................................................. 4
4. DEFINITIONS .......................................................... 4
5. PRINCIPLES ....................................................... 6
6. PROCEDURAL FAIRNESS .......................................... 12
7. SUFFICIENT INTEREST ........................................... 13
8. PRIVACY AND CONFIDENTIALITY .............................. 13

AVAILABILITY OF POLICY .............................................. 13

POLICY REVIEW ...................................................... 13

VERSION HISTORY ................................................... 13

DOCUMENT CONTROL .................................................. 14

APPENDIX A ............................................................. 15
1. **PREAMBLE**

The City of Mitcham is committed to transparent decision-making processes and to providing access to a fair and objective procedure for the review of decisions to those who feel they have been adversely affected.

Council, its committees, staff and contractors make decisions every day that impact members of the community. It is imperative that these decisions are fair, objective, transparent and subject to review.

Requests for review of a Council Decision are managed in accordance with Council’s Complaints Management Handling Policy and may be resolved following one of more of via the following processes *(shown at diagram1)*:

1. an informal, immediate resolution to a request for review of a decision (wherever possible);

2. Escalation of the review of a decision complaint by to a more senior officer within the relevant department; and if requested escalation to;

3. An internal review of a decision under Section 270 of the *Local Government Act 1999* (‘the Act’) where an application is lodged. This does not preclude a complainant from contacting the South Australian Ombudsman at any time.

Section 270 of the Act requires Council to maintain policies, practices and procedures for dealing with requests for service, complaints and requests for the internal review of decisions of:

a) Council;

b) Employees of the Council; and

c) other persons acting on behalf of the Council.

An application for a review of a Council Decision provides Council with an opportunity to revisit a Decision which has aggrieved an interested party. It can also be considered as an opportunity for improvement to services or process.
2. PURPOSE
The purpose of this policy is to provide direction for how Council will deal with manage a formal request for the internal review of a Council Decision (including a decision by its employees and other people acting on behalf of Council).

3. SCOPE
Council aims to resolve all requests for review of a decision as quickly and effectively as possible. Council Administration will seek to ensure that any person who makes an application to review a Council decision is made aware of the process under section 270 of the Act.

Council Administration will encourage parties to participate in a resolution process prior to lodging an application for internal review of a Council decision (conciliation, mediation or neutral evaluation).

In some cases, legislation provides for a statutory process to appeal and/or review certain Council decisions. These decisions are outside the scope of a section 270 review, but may be considered for a review under section 270 on the merits of the individual application. A list of the Acts which contain specific appeal and/or review procedures relevant to certain Council decisions appears in Appendix A of this Policy.

Applications for a section 270 review in relation to matters that fall outside of statutory appeal or review procedures will be considered on their merits.

The Council is not required to cease or delay implementing a decision that is the subject of an application or request for review of a Council decision. The Council may, however, choose to do so as a matter of discretion where it considers this is appropriate.

4. DEFINITIONS

Administration refers to the Employees responsible for implementing the decisions of the Council and managing the day-to-day responsibilities of running the organisation

Alternative Dispute Resolution includes mediation, conciliation and neutral evaluation as set out in Section 271 of the Act

Applicant is any party lodging a written application or request for a review of a decision, and could be an individual or a group, residents, ratepayers, business owner(s), 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 person occupying the office of the Chief Executive Officer of the City of Mitcham.

Council refers to the elected decision-making body of the City of Mitcham.
Conciliation is a voluntary process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the conciliator), identify the issues in dispute, develop options, consider alternatives and endeavour to reach an agreement prior to commencing a section 270 review. The conciliator may have an advisory role on the content of the dispute or the outcome of its resolution, but not a determinative role. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms, and may actively encourage the participants to reach an agreement.

Council Administration refers to the Employees of the City of Mitcham.

Decision is a position adopted by the Council, a Council committee, Council employees and/or any person acting on behalf of the Council, which may, for example, involve a determination to take a certain course of action. In the case of decisions made by the Council (the elected body) or a Council committee, these decisions are arrived at by a formal resolution made at a Council or committee meeting, that is passed following the Council’s/committee’s consideration of relevant information.

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 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.

Frivolous request is any request from an Applicant, whereby the granting or progression of which by the Council, would result in an unreasonable diversion of public resources, including because as it relates to unsubstantiated claims and/or a matter that has already been dealt with by the Council.

Investigator is a person who fulfils the role of reviewer and is usually an external appointment.

IRCO is the Internal Review Contact Officer who is appointed to act as liaison between Council and the Applicant.

Mediation is a voluntary process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the mediator), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation in order to facilitate a resolution of the matter at hand.

Neutral Evaluation is a process in which the parties to a dispute present arguments and evidence to a dispute resolution practitioner (evaluator), in an attempt to resolve the matter. The evaluator must seek to identify and reduce the issues of fact and law that are in dispute, assess the relative strengths and weaknesses of each party’s case and offer an opinion of the likely outcome of further proceedings.

Procedural Fairness is acting in accordance with the principles of natural justice including by ensuring relevant parties are (where applicable) provided with a
reasonable opportunity to be heard, to provide information and to respond to issues raised.

**Reviewer** refers to the individual or entity who is given the responsibility for the resolution of a request for review of a decision.

**Sufficient Interest** means, an interest in the decision which is beyond that of any other member of the public and must confer a benefit or advantage or relieve the complainant of a detriment or disadvantage to which the complainant would otherwise have been subjected to.

**Vexatious request** is any request from an **Applicant** that the **Reviewer** considers is mischievous, without sufficient grounds unsubstantiated or unsupported by evidence, or if progressed would serve only to cause annoyance to another party.

## 5. PRINCIPLES

The principles underpinning this **Policy** are:

### 5.1 Fair treatment

which requires impartiality and transparency at all stages of the process and the provision of reasonable opportunity for the applicant to provide information and further comment.

### 5.2 Accessibility

which includes generating awareness of Council’s policies and procedures including how to lodge a formal review and providing assistance to applicant’s as may reasonably be necessary to enable them to lodge an application for a section 270 review

### 5.3 Responsiveness

to reviews which requires the provision of sufficient resources, well trained staff and a willingness to review and improve Council systems and ensuring completion in a timely manner.

### 5.4 Efficiency

in resolving reviews as quickly as possible, while ensuring that each application is dealt with at a level that is appropriate to the complexity of the decision.

### 5.5 Integrated approach

to issues under review which have overlapping functional responsibilities.

### 5.6 Continuous improvement

by monitoring the effectiveness of council processes and practices and implementing identified improvements to enhance their effectiveness and/or efficiency.
POLICY STATEMENT: PROCEDURE

Detailed procedures of how this policy (requests for a review of decision) are managed are provided at Attachment B of this Policy. However, the following is provided for ease of reference;

- Any person can make an application for a review of a decision,
- An initial response will be made within five (5) days of receipt by IRCO,
- An independent review will be attempted to be completed as soon as possible (within six (6) months),
- An applicant will be informed of the review’s progress by IRCO,
- The decision sought to be reviewed must have been made within 6 months,
- The following may trigger a refusal (by IRCO);
  - The matter is related to an employment matter
  - The application appears to be frivolous or vexatious
  - The applicant does not have sufficient interest in the matter
- An IRCO may be appointed by the CEO as the Reviewing Officer (see also diagram 2 below);
- Applicants will be afforded natural justice, and treated respectfully in accordance with the principles contained within the policy,
- Where appropriate, reasons for the decision will be provided to the Applicant,
- Where a review results in the Applicants grievance being upheld (original decision overturned) various outcomes may occur however any financial compensation will be a decision of the CEO and/or Council having first consulted Council’s Mutual Liability Scheme.

Diagram 2

The City of Mitcham is committed to transparent decision-making processes and to providing access to a fair and objective procedure for the review of decisions to those who feel they have been adversely affected by them.

An application for a review of a Council decision provides Council with an opportunity to revisit a decision which has aggrieved an interested party. It can also be considered as an opportunity for improvement.

A review will pay particular attention to the process used to arrive at a particular decision as well as any new and relevant information.
5.1. How to Make an Application for a review of a decision

An application or request for review of a Council decision is required to be made within 6 months of that decision having been made and is an option that is available to any person who is aggrieved by the decision. This includes if an initial complaint resolution process does not resolve the matter to that person’s satisfaction.

The Council may exercise discretion to allow a longer timeframe within which an application for review may be made, based on the individual merits of each application, and on a case-by-case basis.

Applications must be in writing and addressed to the Chief Executive Officer and identify the relevant decision and (wherever possible) the decision-maker. The Application should include the applicant’s reasons for requesting the review and any outcome that the applicant is seeking and be accompanied by any supporting evidence.

6.1.2 Equity of treatment

All applicants will be treated equally, in accordance with good administrative practice. Council’s procedures are designed to ensure that:

- a reasonable attempt is made to efficiently resolve the matter through Council’s Complaint Resolution process in the first instance;
- every applicant has the opportunity to make an application for review of a decision covered by this policy;
- an unbiased assessment is undertaken;
- decisions are based on sound evidence; and
- applicants receive information about the progress and outcome of the review.

To ensure that persons are not prevented from lodging an application for review because of any difficulties they may experience, staff will offer assistance where appropriate and provide it on request, including assistance in documenting the reasons for the review in writing, when circumstances warrant. This may include arranging access to interpreters, aids or advocates.

There is no fee payable for a review of a Council decision.

6.1.3 Who can make an application?

An application for review may be made by any person who is aggrieved by a Council decision.

An applicant may be an individual or a group, a resident, ratepayer, business owner, user of council facilities or a visitor to the area. Connection between the decision of council and the applicant is important to clarify when making an application for review of a council decision.

Depending on the particular circumstances, an applicant may also include a person who is not the direct subject of the decision. For example, where a 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 that decision.
6.1.4. Applications for a review of the impact of rates or services charges

If Council receives an application for a review of a decision concerning the impact of Council rates or services charges, these will be dealt with as a matter of priority. Where circumstances warrant, Council will consider financial relief or the granting of concessions in line with the provisions of the Act.

6.1.5. Refusal of an application

The Council may refuse to consider an application for review if:
- the application is made by an employee of council and relates to an issue concerning his or her employment; or
- it appears that the application is frivolous or vexatious; or
- the applicant does not have a sufficient interest in the matter.

A decision to refuse an application for review will not be made lightly and reasons for the refusal will be documented which will include reference to any supporting evidence. The decision to refuse an application is assessed by the Internal Review Contact Officer (IRCO).

5.2. Internal Review Contact Officer

An Internal Review Contact Officer (IRCO) appointed by the CEO is the initial point of contact for applicants.

The role of the IRCO is (in part) to:
- acknowledge the receipt of the application within five business days;
- explain the review procedure to the applicant and explore the possibility of progressing any alternative options to resolve the matter, such as Alternative Dispute Resolution;
- where applicable, inform the CEO / Council of reason to 'trigger' 'Refusal';
- outline the timeframes involved and the action to be taken in the first instance. Where possible, a review will be completed in twenty (20) business days. This timeframe may be longer if an external investigator is used and/or the matter is referred to the Council (elected body) for a decision;
- keep the applicant informed of progress of the review (or any delays).

5.3. Review process

5.3.1. Appointment of Reviewer

The process for reviewing a decision will vary depending on how the decision was originally made.

If the decision under review was made by a resolution of Council then applications for the review of that decision will be referred to the Council (elected body) for determination. In this case, the CEO (in consultation with the Mayor, where the CEO sees appropriate) is responsible for appointing the Reviewer who will undertake the investigation and the preparation of a report for Council's consideration. The Reviewer may be the CEO, a senior Council Officer, or a person independent of the Council.

If the decision under review is a decision that was made by the CEO, then a Director who has not had involvement in the decision and whose responsibilities fall outside of the issues relevant to the review will be responsible for appointing a person external to the Council as the Reviewer.
in consultation with the Mayor (i.e. who will investigate and report back to Council for its determination).

If the decision under review was made by an officer or an agent of the Council, then the CEO will appoint a Reviewer who will investigate and report back to the CEO for their determination. The Reviewer may be a senior Council officer who has no association with the matter under review.

If the decision under review is contentious, complex and/or raises legal questions a person external to the Council with appropriate expertise may be appointed as the Reviewer, and the cost of such appointment be reported to Council.

The Council may otherwise determine the outcome of an application for review:

- in respect of a Council decision relating to civic and ceremonial matters; or
- where the CEO determines this is appropriate having regard to the decision subject of the application; or
- if the otherwise Council resolves to this effect.

5.3.2. Role of reviewer

The role of the Reviewer is to review the decision in question to ensure that the decision-maker complied with all procedural requirements and made the best possible decision in the circumstances.

In undertaking the review, the Reviewer must consider both the procedure leading to the decision and the merits of the decision. The Reviewer is required to determine and report upon whether it was the correct and preferable decision in all the circumstances.

Matters to be considered by the Reviewer in asessing the legality of the decision and whether it is the ‘correct and preferable’ decision include (without limitation):

- the legislative powers pursuant to which the decision is made;
- the application and affect of relevant Council policies in relation to the decision;
- whether all matters relevant to the decision were taken into account;
- that the decision was made in good faith and not for any improper purpose;
- whether the decision was objectively reasonable and appropriate in all of the circumstances.

The Reviewer is responsible for ensuring that

- findings of fact are based on evidence;
- any recommendations to resolve the matter are reasonable; and
- that procedural fairness is accorded to all parties as necessary.

5.3.3. Procedural fairness

Council will observe the principles of procedural fairness (also called ‘natural justice’) when exercising its statutory powers in a manner that adversely affects the rights and interests of individuals.
In the context of a section 270 review, procedural fairness involves:

- giving the applicant adequate opportunity to put their case forward and to provide relevant information;
- ensuring that the Reviewer is objective (i.e., not biased) and does not have a personal interest in the outcome and makes findings based on the evidence;
- providing the applicant with an opportunity to comment in relation to any final report and to make submission in relation to any proposed recommendation. Where the reviewer is the Council a submission may be made by way of a deputation to the Council at a formal meeting if a request for the deputation is approved in accordance with the Local Government (Procedures at Meetings) Regulations 2013.

5.3.4. Reasons for a decision

While there is no statutory requirement to give reasons for a decision arising from a review, Council will provide reasons for the decision of the Reviewer where practicable.

Council will always give reasons to explain the outcome of the review or the decision where:
- a decision is not in accordance with published policy;
- a decision is likely to detrimentally affect rights or interests of individuals (or organisations) in a material way, or
- it relates to conditions that are attached to any approval, consent, permit, licence or other authorisation issued by the Council.

5.3.5. Outcome of a review

Where the review of a decision upholds the applicant’s grievance, an appropriate remedy or response will be determined which is consistent and fair for both the Council and applicant. The remedy chosen will be proportionate and appropriate to any failing that the review process may have identified.

The range of other possible outcomes includes:

- an apology
- an explanation
- mediation or other alternative dispute resolution process
- an admission of fault
- Council Motion to vary, amend or rescind,
- a change to policy, procedure or practice
- a correction of misleading records
- financial compensation, including a refund of any fees paid by the applicant
- the waiving of a debt
- the remission of a penalty
- disciplinary action against Council employees
- referral of a matter to an external agency for further investigation

The remedy or response may be one, or a combination of these actions. The chosen remedy will be proportionate and appropriate to the findings of the review and will take into account any remedy sought by the applicant as part of their application for review.
If an apology is required it will be done promptly and the appropriate action will be taken to make any improvements required to the process.

Where disciplinary action is pursued against a Council employee as a result of the outcomes of a review process, this will occur on a confidential basis and the applicant is not entitled to information regarding the details of any action taken.

The Council itself and the CEO are the only people authorised to offer financial compensation and this will only occur after consultation with the Local Government Association Mutual Liability Scheme.

The IRCO will notify the applicant of the outcome of the review in writing. Where appropriate, information will also be provided to the applicant about alternative remedies, including any rights of appeal and the right to make a complaint to an external agency such as the SA Ombudsman.

5.4. Reporting and records management

All applications will be recorded in Council’s records management system.

The IRCO will record information about all applications for review in order to submit a report to Council annually regarding applications for review that are received by the Council. The report will include:

- the number of applications for review made under section 270 of the Act;
- the kinds of matters to which the applications relate;
- the outcomes of the applications; and
- any other matters as may be prescribed by the regulations under the Act.

This information, as specified in Section 270(8), will be included in Council’s Annual Report as per Schedule 4(1)(i) of the Act.

The IRCO will also report to the Council regarding how the outcomes have been used to improve Council’s customer service, policies, procedures and practices. Where practicable and appropriate, learning outcomes will be shared with relevant local government agencies and Networks.

5.5. Other formal avenues of complaint

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. Where a complaint is made to the Ombudsman in the first instance, the Ombudsman may, where he sees fit, refer the matter back to the Council to undertake a Section 270 review.

6. PROCEDURAL FAIRNESS

The City of Mitcham will ensure that the principles of natural justice will be provided to an Applicant when administering a Section 270 review by ensuring
7. SUFFICIENT INTEREST

Applicants requesting a review of a decision must have sufficient interest in the decision requested to be reviewed. This involves consideration of Attachment B including (but not limited to) the following:

- The actual or apprehended benefit or injury or damage or discrimination to the Applicant's proprietary rights, business, economic interests, social or political interests; and
- the propinquity of the Applicant in relation to the decision made (proximity, kinship, similarity).

8. PRIVACY AND CONFIDENTIALITY

Applicants should be aware that the details of any request for review of Council decision may be included in the Council Agenda and Minutes which are public documents. Where this occurs, the applicant's name and address will be kept confidential in so far as it is practicable to do so. If this is not practicable, the applicant will be advised.

All applications for review of Council decision lodged with Council are subject to the Freedom of Information Act 1991 and may be disclosed in accordance with the provisions of that legislation.

Whilst the confidentiality of applications for review cannot be guaranteed, where a request for review is referred to the Council for determination, the Council may consider the matter in confidence if it is lawful and appropriate to do so, subject to one of the grounds under section 90(3) of the Act being satisfied.

AVAILABILITY OF POLICY

The policy is a public document and is available for inspection at the:

Customer Service Centre
City of Mitcham
131 Belair Road
TORRENS PARK SA 5062

It is available for inspection and downloading from Council’s website www.mitchamcouncil.sa.gov.au

POLICY REVIEW

This policy will be reviewed every 2 years or earlier as determined by the relevant Manager.

In order to ensure Council continues to provide the best possible service responses to its customers, this policy will be subject to periodic evaluation, with delegation provided to the CEO to make minor amendments that do not change the intention of the policy. Next review November 2022.

VERSION HISTORY

<table>
<thead>
<tr>
<th>VERSION</th>
<th>AUTHOR(S) POSITION</th>
<th>CHANGES</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Governance Officer</td>
<td></td>
<td>26/09/2000</td>
</tr>
<tr>
<td>2</td>
<td>Governance Officer</td>
<td></td>
<td>20/12/2006</td>
</tr>
</tbody>
</table>
### PUBLIC POLICY

**Independent Review of a Decision Policy**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Governance Officer Annual reporting</td>
<td>9/05/2006</td>
</tr>
<tr>
<td>4</td>
<td>Governance Officer Comprehensive review</td>
<td>23/10/2012</td>
</tr>
<tr>
<td>5</td>
<td>Governance Officer Comprehensive review</td>
<td>10/2/2017</td>
</tr>
<tr>
<td>6</td>
<td>Team Leader Governance Definitions inclusion of sufficient interest (clause 4), Principles numbered (clause 5), Policy statement removed (clause 6) to procedure, Addition of Procedural Fairness (clause 6), Addition of Sufficient Interest (clause 7), Addition of Frivolous &amp; Vexatious Complaints (clause 8).</td>
<td>December 2019</td>
</tr>
</tbody>
</table>

#### DOCUMENT CONTROL

<table>
<thead>
<tr>
<th>Responsible Department</th>
<th>Organisational and Community Development</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delegations Apply</td>
<td>YES</td>
</tr>
<tr>
<td>Classification</td>
<td>Governance</td>
</tr>
<tr>
<td>Applicable legislation</td>
<td>Local Government Act 1999 (Section 270)</td>
</tr>
</tbody>
</table>

**Related Policies & Corporate Documents**

- Internal Review of a Council Decision - Procedure
- Complaints Management Policy
- Customer Service Policy
- Rating Policy Statement

**Additional references**

- Ombudsman SA, Valuing Complaints - An audit of complaint handling in South Australian councils – November 2011

<table>
<thead>
<tr>
<th>Endorsed by Council:</th>
<th>Insert</th>
<th>Item No:</th>
<th>Insert</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective Date:</td>
<td>Insert</td>
<td>Next Review Date:</td>
<td>Insert</td>
</tr>
<tr>
<td>ECM Number:</td>
<td>3419166</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX A

Legislation that provides for statutory appeal/review processes that may be applicable to decisions subject of an application for a section 270 review.

Community Titles Act 1996
Development Act 1993
Dog and Cat Management Act 1995
Environment Protection Act 1993
Expiation of Offences Act 1996
Fire and Emergency Services Act 2005
Food Act 2001
Freedom of Information Act 1991
Heavy Vehicle National Law (South Australia) Act 2013
Local Government (Elections) Act 1999
Local Government Act 1999
Natural Resources Management Act 2004
Road Traffic Act 1961
Roads (Opening and Closing) Act 1991
South Australian Public Health Act 2011
Strata Titles Act 1988
Supported Residential Facilities Act 1992
Work Health Safety Act 2012
APPENDIX B – INDEPENDENT REVIEW OF A DECISION POLICY

INDEPENDENT REVIEW OF A DECISION PROCEDURE

Adopted by Council [insert endorsed date]
PUBLIC PROCEDURE

Independent Review of a Decision Procedure

TABLE OF CONTENTS

1. PREAMBLE ............................................................................................................. 3
2. PURPOSE ................................................................................................................ 3
3. SCOPE .................................................................................................................... 3
4. DEFINITIONS ........................................................................................................ 3
5. PRINCIPLES .......................................................................................................... 5
6. PROCEDURAL FAIRNESS .................................................................................... 5
7. SUFFICIENT INTEREST ...................................................................................... 6
8. PROCEDURE STATEMENT ................................................................................... 7
   8.1. How to make an Application for a review of a Decision ............................... 7
   8.2. Equity of treatment ......................................................................................... 7
   8.3. Who can make an application? ....................................................................... 8
   8.4. Applications for a review of the impact of rates or service charges ............... 8
   8.5. Refusal of an application ................................................................................. 8
   8.6. Internal Review Contact Officer ..................................................................... 8
   8.7. Appointment of Reviewer ............................................................................... 9
   8.8. Role of Reviewer ............................................................................................. 10
   8.9. Reasons for a decision .................................................................................... 10
   8.10. Outcome of a review .................................................................................... 11
   8.11. Reporting and records management ............................................................. 12
   8.12. Other formal avenues of complaint ............................................................... 12
9. ALTERNATIVE DISPUTE RESOLUTION ......................................................... 12
10. PRIVACY AND CONFIDENTIALITY ................................................................. 12
11. AVAILABILITY OF PROCEDURE .................................................................. 13
12. PROCEDURE REVIEW ...................................................................................... 13
13. VERSION HISTORY ............................................................................................ 13
14. DOCUMENT CONTROL ..................................................................................... 13
1. PREAMBLE

Council, its committees, staff and contractors make decisions every day that impact members of the community. It is imperative that these decisions are fair, objective, transparent and subject to review.

General Complaints are dealt with in accordance with Council's Complaints Procedure.

Section 270 of the Act requires Council to maintain policies, practices and procedures for dealing with requests for service, complaints and requests for the internal review of decisions of:

a) Council;

b) Employees of the Council; and

c) Other persons acting on behalf of the Council.

This Procedure outlines the process that will be taken in line with requests received under Section 270 of the Act.

2. PURPOSE

The purpose of this Procedure is to clearly outline the process for managing a formal request for the internal review of a Decision, supporting the Internal Review of a Decision Policy.

3. SCOPE

This Procedure applies to all requests for a review of a Decision application. Council aims to resolve all requests for review of a decision as quickly and effectively as possible. Council Administration will seek to ensure that any person who makes an application to review a Council decision is made aware of the process under Section 270 of the Act.

Council Administration will encourage parties to participate in a resolution process prior to lodging an application for internal review of a Council decision.

In some cases, legislation provides for a statutory process to appeal and/or review certain Council decisions. These decisions are outside the scope of a Section 270 review. A list of the Acts which contain specific appeal and/or review procedures relevant to certain Council decisions appears in Appendix A of this Policy. Applications for a Section 270 review in relation to matters that fall outside of statutory appeal or review procedures will be considered on their merits.

The Council is not required to cease or delay implementing a decision that is the subject of an application or request for review of a Council decision. The Council may, however, choose to do so as a matter of discretion where it considers this is appropriate.

4. DEFINITIONS

Refer to the Independent Review of a Decision Policy.

Act means the Local Government Act 1999 (SA).
**Public Procedure**

**Independent Review of a Decision Procedure**

**Alternative Dispute Resolution** includes Mediation, Conciliation and Neutral Evaluation as set out in Section 271 of the Act.

**Applicant** is any party lodging a written application or request for a review of a decision, and could be an individual or a group, residents, ratepayers, business owner(s), 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 person occupying the office of the Chief Executive Officer of the City of Mitcham.

**Council** refers to the elected decision making body of the City of Mitcham.

**Conciliation** is a voluntary process in which the parties to a dispute, identify the issues, develop options, consider alternatives and endeavour to reach an agreement prior to commencing a Section 270 review.

**Council Administration** refers to the Employees of the City of Mitcham.

**Decision** is a position adopted by the Council, a Council committee, Council Employees and/or any person acting on behalf of the Council, which may, for example, involve a determination to take a certain course of action. In the case of Decisions made by the Council (the elected body) or a Council committee, these Decisions are arrived at by a formal resolution made at a Council or committee meeting.

**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 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.

**Investigator** is a person who fulfils the role of reviewer and is usually an external appointment.

**IRCO** is the Internal Review Contact Officer who is appointed to act as liaison between Council and the Applicant. The IRCO may also be the Reviewing officer (as approved by the CEO).

**Kinship** means a closeness in relationship.

**Mediation** is a voluntary process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the mediator), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement.

**Neutral Evaluation** is a process in which the parties to a dispute present arguments and evidence to a dispute resolution practitioner (evaluator) in an attempt to resolve the matter. The evaluator must seek to identify and reduce the issues of fact and
law that are in dispute, assess the relative strengths and weaknesses of each party’s case and offer an opinion of the likely outcome of further proceedings.

**Procedural Fairness** is acting in accordance with the principles of natural justice by ensuring relevant parties are provided with a reasonable opportunity to be heard, to provide information and to respond to issues raised.

**Proximity** means a closeness in location.

**Reviewer** refers to the individual or entity who is given the responsibility for the resolution of a request for review of a Decision.

**Similarity** means a closeness to a group or class of persons.

‘**Sufficient Interest**’ means, an interest in the subject matter of the complaint or Decision which is beyond that of any other member of the public and must confer a benefit or advantage or relieve the Applicant of a detriment or disadvantage to which the Applicant or complainant would otherwise have been subjected to.

**Frivolous request** is a request from an Applicant whereby the granting or progression by the Council or Council Administration would result in an unreasonable diversion of public resources as it relates to unsubstantiated claims and/or a matter that has already been dealt with by the Council or Council Administration.

**Vexatious request** is any request from an Applicant that is mischievous, unsubstantiated, unsupported by evidence or if progressed, would only cause annoyance.

References to the singular include a reference to the plural and vice versa.

5. **PRINCIPLES**

The principles underpinning this Procedure are outlined in Clause 5 of Council’s Internal Review of a Decision Policy and include, fair treatment, accessibility, responsiveness, efficiency, integrated approach and continuous improvement.

6. **PROCEDURAL FAIRNESS**

Council Administration will ensure that any person requesting a review of a Decision will be afforded the right and opportunity, in line with procedural fairness, to:

- be provided with an opportunity to reply in a way that is appropriate for the circumstances;

- have their reply received and considered before a decision is made;

- to receive all information before preparing their reply including:
  - a description of the Decision;
  - the criteria for making the Decision; and
  - any information on which any such decision would be based.
to be afforded a reasonable chance to consider their position and provide a reply; and

to have their submission considered thoroughly and given proper and genuine consideration by Council Administration.

Council Administration will follow the steps set out in Clause 8 below to achieve the elements of procedural fairness.

Council Administration will also analyse whether the Applicant has Sufficient Interest in the subject matter of the Decision in determining whether to refuse any application for review in accordance with Section 270(4)(c) of the Act 1989.

7. SUFFICIENT INTEREST

Sufficient Interest, as defined in this Procedure, generally requires that the Applicant demonstrate an interest in the subject matter of the action which is beyond that of any other member of the public.

This initial step will be undertaken by the IRCO in determining whether to proceed with a request to review a Decision under Section 270 of the Act. The IRCO will turn their mind to Proximity, Kinship and Similarity in assessing Sufficient Interest.

In determining whether an Applicant has Sufficient Interest in the subject matter of a Decision, the Applicant will be required to provide evidence of and/or demonstrate (but not limited to), anyone, all or a combination of the following:

- the Decision has caused the Applicant more than just a mere intellectual or emotional concern and that the Applicant will gain some advantage or disadvantage, other than the satisfaction of righting a wrong, upholding a principle or winning a contest;

- the Applicant has a direct relationship either individually or as part of a representative body in relation to the issue in dispute within the Decision;

- demonstrate the Applicant has suffered actual or apprehended injury or damage to the Applicant’s proprietary rights, business or economic interests or social or political interests;

- demonstrate that the Decision is beyond the power and authority of the Council or Council Administration to make and has affected the Applicant or a given area the Applicant resides in; or

- demonstrate that success in the action to review a Decision will confer on the Applicant personally or as a member of a class, a benefit or advantage greater than that of an ordinary member of the community or relieve the Applicant of a detriment or disadvantage to which the Applicant would otherwise have been subject personally or as a member of a class to an extent greater than that of any ordinary member of the community;

The above criteria is not an exhaustive list of possible factors that may be considered by the Council or Council Administration in determining whether an Applicant has a Sufficient Interest in the review of a Decision, and any review of a Decision will be
conducted on a case by case basis and the Council reserves the right to refuse a request for review if the Council deems that an Applicant lacks Sufficient Interest in the subject matter of the Decision complained of.

Frivolous and Vexatious requests will be dealt with in accordance with the Council’s Unreasonable Complaints and Requests Policy.

8. PROCEDURE STATEMENT

The City of Mitcham is committed to transparent decision making processes and to providing access to a fair and objective procedure for the review of Decisions under Section 270 of the Act.

An application for a review of a Decision provides Council and Council Administration with an opportunity to revisit a Decision which has aggrieved an interested party. It can also be considered as an opportunity for improvement.

A review will pay particular attention to the process used to arrive at a particular decision as well as any new and relevant information.

8.1. How to make an Application for a review of a Decision

An application or request for review of a Decision is required to be made within 6 months of that Decision having been made and is an option that is available to any person who is aggrieved by the Decision. This includes if an initial complaint resolution process does not resolve the matter to that person’s satisfaction.

The Council or Council Administration, as the case may be, may exercise discretion to allow a longer timeframe within which an application for review may be made, based on the individual merits of each application, and on a case-by-case basis.

Applications must be in writing and addressed to the Chief Executive Officer and identify the relevant Decision and (wherever possible) the decision-maker. The Application should include the Applicant’s reasons for requesting the review and any outcome that the Applicant is seeking and be accompanied by any supporting evidence.

8.2. Equity of treatment

All Applicants will be treated equally, in accordance with good administrative practice. Council’s procedures are designed to ensure that:

- a reasonable attempt is made to efficiently resolve the matter through Council’s complaint resolution process in the first instance;
- every Applicant has the opportunity to make an application for review of a decision covered by this Procedure;
- an unbiased assessment is undertaken;
- decisions are based on sound evidence; and
- Applicants receive information about the progress and outcome of the review in accordance with Clause 6 of this Procedure.
To ensure that persons are not prevented from lodging an application for review because of any difficulties they may experience, Council Administration will offer assistance where appropriate and provide it on request, including assistance in documenting the reasons for the review when circumstances warrant. This may include arranging access to interpreters, aids or advocates.

There is no fee payable for a review of a Decision.

8.3. **Who can make an application?**

An application for review may be made by any person who is aggrieved by a Decision.

An applicant may be an individual or a group, a resident, ratepayer, business owner, user of council facilities or a visitor to the area. Connection between the Decision and the Applicant is a factor to be determined by Council Administration and all potential Applicant’s are advised to carefully read Clause 7 above.

Depending on the particular circumstances, an Applicant may also include a person who is not the direct subject of the Decision. For example, where a 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 that decision.

8.4. **Applications for a review of the impact of rates or service charges**

If Council or Council Administration receives an application for a review of a Decision concerning the impact of Council rates or services charges, these will be dealt with as a matter of priority. Where circumstances warrant, Council or Council Administration will consider financial relief or the granting of concessions in line with the provisions of the Act.

8.5. **Refusal of an application**

The Council or Council Administration may refuse to consider an application for review in accordance with Section 270(4) of the Act if:

- the application is made by an employee of the council and relates to an issue concerning his or her employment; or
- it appears that the application is frivolous or vexatious; or
- the applicant does not have a Sufficient Interest in the matter.

A decision to refuse an application for review will not be made lightly and reasons for the refusal will be documented which will include reference to any supporting evidence. The decision to refuse an application is assessed by the Internal Review Contact Officer (IRCO).

8.6. **Internal Review Contact Officer**

An IRCO appointed by the CEO is the initial point of contact for Applicants.

The role of the IRCO is (in part) to:

- acknowledge the receipt of the application within 5 business days;
- explain the review procedure to the Applicant and explore the possibility of progressing any alternative options to resolve the matter, such as Alternative Dispute Resolution;

- Where applicable, inform the CEO / Council of reason to ‘trigger’ ‘Refusal’;

- outline the timeframes involved and the action to be taken in the first instance. Where possible, a review will be completed in twenty (20) business days. This timeframe may be longer if an external investigator is used, the matter is referred to the Council (elected body) for a decision or the Decision in question is complex in nature;

- keep the Applicant informed of progress of the review (or any delays).

The IRCO should turn their mind to the question of whether the Applicant has Sufficient Interest in the subject matter of the Decision in accordance with Clause 7 above. If it is determined that the Applicant has not demonstrated Sufficient Interest in the Decision, then the IRCO, in consultation with the Council and/or the CEO, may refuse the Applicant’s request.

8.7. Appointment of Reviewer

The process for reviewing a Decision will vary depending on how the Decision was originally made.

If the Decision under review was made by a resolution of Council then applications for the review of that Decision will be referred to the Council (elected body) for determination. In this case, the CEO (in consultation with the Mayor where the CEO sees appropriate) is responsible for appointing the Reviewer who will undertake the investigation and the preparation of a report for Council’s consideration. The Reviewer may be the CEO, a senior Council Officer, or a person independent of the Council.

If the Decision under review is a Decision that was made by the CEO, then a Director who has no involvement in the Decision and whose responsibilities fall outside of the issues relevant to the review will be responsible for appointing a person external to the Council as the Reviewer, in consultation with the Mayor (i.e. who will investigate and report back to Council for its determination).

If the Decision under review was made by an Employee of the Council, then the CEO will appoint a Reviewer who will investigate and report back to the CEO for their determination. The Reviewer may be a senior Council officer who has no association with the matter under review.

The IRCO may be appointed as the reviewing officer by the CEO.

If the Decision under review is contentious, complex and/or raises legal questions a person external to the Council with appropriate expertise may be appointed as the Reviewer, and the cost of such appointment be reported to Council.
The Council may otherwise determine the outcome of an application for review:
- in respect of a Council Decision relating to civic and ceremonial matters, or
- where the CEO determines this is appropriate having regard to the Decision subject of the application; or
- if the otherwise Council resolves to this effect.

8.8. Role of Reviewer

The role of the Reviewer is to review the Decision in question to ensure that the decision-maker complied with all procedural requirements and made the best possible determination in the circumstances.

In undertaking the review, the Reviewer must consider both the procedure leading to the decision and the merits of the decision. The Reviewer is required to determine and report upon whether it was the correct and preferable decision in all of the circumstances.

Matters to be considered by the Reviewer in assessing the legality of the Decision and whether it is the ‘correct and preferable’ Decision include (without limitation):
- the legislative powers pursuant to which the Decision is made;
- the application and affect of relevant Council policies in relation to the Decision;
- whether all matters relevant to the Decision were taken into account;
- that the Decision was made in good faith and not for any improper purpose;
- whether the Decision was objectively reasonable and appropriate in all of the circumstances.

The Reviewer is responsible for ensuring that
- findings of fact are based on evidence;
- any recommendations to resolve the matter are reasonable; and
- that procedural fairness is accorded to all parties as necessary.

8.9. Reasons for a decision

While there is no statutory requirement to give reasons for a Decision arising from a review, Council will provide reasons for the decision of the Reviewer where practicable in line with the principles of Procedural fairness.

Council and/or Council Administration will always give reasons to explain the outcome of the review or the Decision where:
- a Decision is not in accordance with published policy;
8.10. Outcome of a review

Where the review of a Decision upholds the Applicant's grievance, an appropriate remedy or response will be determined which is consistent and fair for both the Council and Applicant. The remedy chosen will be proportionate and appropriate to any failing that the review process may have identified.

The range of other possible outcomes includes:

- an apology
- an explanation
- mediation or other alternative dispute resolution process
- an admission of fault
- Council Motion to vary, amend or rescind
- a change to policy, procedure or practice
- a correction of misleading records
- financial compensation, including a refund of any fees paid by the applicant
- the waiving of a debt
- the remission of a penalty
- disciplinary action against Council employees
- referral of a matter to an external agency for further investigation

The remedy or response may be one, or a combination of these actions. The chosen remedy will be proportionate and appropriate to the findings of the review and will take into account any remedy sought by the Applicant as part of their application for review.

If an apology is required it will be done promptly and the appropriate action will be taken to make any improvements required to the process.

Where disciplinary action is pursued against an Employee as a result of the outcomes of a review process, this will occur on a confidential basis and the Applicant is not entitled to information regarding the details of any action taken.

The Council itself and the CEO are the only people authorised to offer financial compensation and this will only occur after consultation with the Local Government Association Mutual Liability Scheme.

The IRCO will notify the Applicant of the outcome of the review in writing. Where appropriate, information will also be provided to the Applicant about
alternative remedies, including any rights of appeal and the right to make a complaint to an external agency such as the SA Ombudsman.

8.11. Reporting and records management

All applications will be recorded in Council’s records management system.

The IRCO will record information about all applications for review in order to submit a report to Council annually regarding applications for review that are received by the Council. The report will include:

- the number of applications for review made under section 270 of the Act;
- the kinds of matters to which the applications relate;
- the outcomes of the applications; and
- any other matters as may be prescribed by the regulations under the Act.

This information, as specified in Section 270(8), will be included in Council’s Annual Report as per Schedule 4(1)(i) of the Act.

The IRCO will also report to the Council regarding how the outcomes have been used to improve Council’s customer service, policies, procedures and practices. Where practicable and appropriate, learning outcomes will be shared with relevant local government agencies and networks.

8.12. Other formal avenues of complaint

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. Where a complaint is made to the Ombudsman in the first instance, the Ombudsman may, where he or she sees fit, refer the matter back to the Council to undertake a section 270 review.

9. ALTERNATIVE DISPUTE RESOLUTION

[If we want to provide for Mediation, Conciliation or Neutraal Evaluation. Section 271 if the Act provides that the Council must adopt a Scheme for the purposes of constituting panels of persons who are suitable and available to act as Mediators, Conciliators or evaluators – this is a decision for GM’s and M’s CEO to discuss]}

10. PRIVACY AND CONFIDENTIALITY

Applicants should be aware that the details of any request for review of a Decision may be included in the Council Agenda and Minutes which are public documents. Where this occurs, the Applicant’s name and address will be kept confidential in so far as it is practicable to do so. If this is not practicable, the Applicant will be advised.

All applications for review of a Decision lodged with Council are subject to the Freedom of Information Act 1991 and may be disclosed in accordance with the provisions of that legislation.
Whilst the confidentiality of applications for review cannot be guaranteed, where a request for review is referred to the Council for determination, the Council may consider the matter in confidence if it is lawful and appropriate to do so, subject to one of the grounds under section 90(3) of the Act being satisfied.

11. AVAILABLEIBILITY OF PROCEDURE

The procedure is a public document and is available for inspection at the:

Customer Service Centre
City of Mitcham
131 Belair Road
TORRENS PARK SA 5062

It is available for inspection and downloading from Council’s website www.mitchamcouncil.sa.gov.au

12. PROCEDURE REVIEW

This policy will be reviewed every 4 years or earlier as determined by the relevant Manager and/or General Manager.

In order to ensure Council continues to provide the best possible service to its customers, this procedure will be subject to periodic evaluation, with delegation provided to the CEO to make minor amendments that support the policy. Next review November 2022.

13. VERSION HISTORY

<table>
<thead>
<tr>
<th>VERSION</th>
<th>AUTHOR(S) POSITION</th>
<th>CHANGES</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Governance Officer</td>
<td>New Document</td>
<td>Insert</td>
</tr>
</tbody>
</table>

14. DOCUMENT CONTROL

<table>
<thead>
<tr>
<th>Responsible Department</th>
<th>Organisational and Community Development</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delegations Contained within Procedure</td>
<td>YES</td>
</tr>
<tr>
<td>Classification</td>
<td>Governance</td>
</tr>
<tr>
<td>Applicable legislation</td>
<td>Local Government Act 1999</td>
</tr>
</tbody>
</table>
**PUBLIC PROCEDURE**

**Independent Review of a Decision Procedure**

<table>
<thead>
<tr>
<th>Endorsed by Council</th>
<th>Click here to enter a date.</th>
<th>Item No:</th>
<th>Insert item number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective Date</td>
<td>Click here to enter a date.</td>
<td>Next Review Date:</td>
<td>Click here to enter a date.</td>
</tr>
<tr>
<td>Procedure Set ID</td>
<td>Insert!</td>
<td>Template Set ID:</td>
<td>3345084</td>
</tr>
</tbody>
</table>

**MITCHAM**

**DRAFT - Governance to Remove**
UNREASONABLE COMPLAINTS and REQUESTS

Adopted by Council [insert endorsed date]
# TABLE OF CONTENTS

1. PREAMBLE ........................................................................................................... 3
2. PURPOSE ............................................................................................................ 3
3. SCOPE ................................................................................................................. 3
4. DEFINITIONS ...................................................................................................... 4
5. PRINCIPLES ........................................................................................................ 6
6. POLICY STATEMENT ........................................................................................... 7
7. POLICY REVIEW .................................................................................................. 11
8. VERSION HISTORY .............................................................................................. 11
9. DOCUMENT CONTROL ....................................................................................... 11
1. **PREAMBLE**

The City of Mitcham (the Council) occasionally receives Complaints and/or requests for service or information that can be considered unreasonable in the given circumstances. Complaints of this nature can have considerable cost implications for ratepayers and divert Council resources away from service delivery whilst also potentially adversely affecting the health and safety of Elected Members and/or Employees.

This Policy aims to guide administration in ensuring that these types of Complaints are managed in a way that is equitable, transparent and accountable.

2. **PURPOSE**

This Policy establishes a framework for the manner in which the Council will respond to Customer requests for service and information, and specifically, the approach to be adopted when managing unreasonable requests for service, information and Complaints by a Customer who is dissatisfied with a process, decision, product or service offered or provided by the Council.

3. **SCOPE**

The objective of this Policy is to establish clear guidelines and procedures for handling unreasonable Complaints and requests for services or information in the interests of improving service delivery and to:

- improve Customer service through effective management of Complaints;
- facilitate the management of requests for service and requests for information;
- facilitate the resolution of Complaints in a timely manner;
- ensure that a Customer understands what the Council can and cannot do and, will and will not do;
- ensure resolution processes in relation to Complaints are equitable, transparent and accountable;
- prevent the Council’s limited resources being utilised towards malicious, frivolous, unreasonable, persistent or vexatious requests or Complaints;
- outline the considerations to be taken into account in determining whether a request or Complaint is frivolous, malicious or vexatious; and
- define what constitutes unreasonable Complainant conduct, to outline the options available to Council to manage unreasonable Complainant conduct and the circumstances in which it is appropriate to implement these options.

This policy applies to Complaints made to the Council except for Complaints involving the following issues:

- Complaints related to competitive neutrality;
COUNCIL POLICY

Unreasonable Complaints and Requests

- allegations of a breach of conflict of interest obligations by an Elected Member or Employee - refer to the relevant Codes of Conduct;
- internal staff Complaints - refer to the relevant People and Culture policies and procedures; and/or
- any matters before a Court, Tribunal, South Australia Police, a Minister of the Crown, a South Australian or Federal Government Department, the Office for Public Integrity or the South Australian Ombudsman.

The Council has obligations under work, health and safety legislation to provide a safe working environment. Council is mindful of the stress that dealing with difficult Customers can place on Council staff and as such, management will always provide support to staff when dealing with difficult Customers.

Nothing in this policy is intended to prevent a person from lodging a Complaint with an external authority (such as SAPOL, the Office for Public Integrity, the Office of Local Government or the Ombudsman).

4. DEFINITIONS

'Complaint' means a Customer who:

a) expresses or infers dissatisfaction with a product, service or decision delivered by Council which has, or should have, been received that has failed to reach the standard, stated, implied or expected. This may include decisions of Council, its policies, procedures, charges, employees, agents or the quality of Council services; and/or

b) forms and notifies the Council of his/her belief that the Council has failed to act upon a request for service within a reasonable timeframe.

'Complaint Resolution' means a Complaint is resolved when a Customer is satisfied that the Council has made its best attempt to address and resolve the issues raised by the Complainant. It is possible that a Customer may not be completely satisfied with the outcome but the Complaint is taken to have been resolved where the Customer accepts the outcome and does not seek to escalate the Complaint any further.

'Complainant' means a Customer who is dissatisfied with the service delivery of the Council or the handling of a request for information.

'Council' means the Elected Member body representing the Council or an Employee of the Council under delegation.

'Chief Executive Officer' means the person occupying the office of the Chief Executive Officer of the Council and includes a person acting in the office of the Chief Executive Officer (and includes a delegate).

'Customer' means a person or group who live, work, study, own property, conduct business, visit or use the services, facilities and public spaces and places of the Council.

‘Internal Review of a Council Decision’ means a Customer who seeks a review of a decision made by the Council, an employee of the Council, or persons acting on behalf of the Council. These are dealt with under the Council’s Internal Review of a Decision Policy.

‘Frivolous Complaint or request’ means a Complaint or request that lacks substance or merit, has no serious purpose or value or is otherwise trivial in nature.

‘LG Act’ is the Local Government Act 1999

‘Malicious Complaint or request’ means a Complaint or request that is motivated by improper, vicious, or mischievous purposes.

‘Persistent’ means a person or group that:
- refuses to give up or let go of an issue; and/or
- is obstinate; and/or
- continues to raise an issue notwithstanding the Council having reasonably communicated its position to the person or group in respect of that issue.

‘Request for information’ means a Request for information or documents held by the Council, which may fall into one of four categories:

1. requests for access to information or documents pursuant to the FOI Act;

2. requests for access to information or documents that are made publicly available by the Council, whether under the provisions of the LG Act, other statutory obligations, or at the discretion of the Council;

3. requests for access to information or documents to information or documents that have been ordered as confidential by the Council pursuant to the LG Act; or

4. requests for access to other information or documents, that do not fall into any of the above categories.

‘Request for service’ means a request that the Council provide a particular service or undertake a particular piece of work. A request for improvement of a service will be treated in the same manner as a Complaint for the purposes of this policy.

‘Unreasonable Complainant Conduct’ means any behaviour by a current or former Complainant which, because of its nature or frequency, raises notable health, safety, resource or equity issues for the parties to a Complaint.
COUNCIL POLICY

Unreasonable Complaints and Requests

‘Vexatious Complaint’ means a Complaint or request that is made to harass, annoy, delay or cause detriment or trouble to the Council or a third party. A Complaint may be considered vexatious if:

- it comprises false allegations and cannot possibly succeed; or
- there is an absence of any reasonable grounds for lodging the Complaint; and/or
- the Complainant does not have Sufficient Interest in the matters the subject of the Complaint.

‘Sufficient Interest’ means, in relation to a Complainant, an interest in the subject matter of the Complaint which is beyond that of any other member of the public and must confer a benefit or advantage or relieve the Complainant of a detriment or disadvantage to which the Complainant would otherwise have been subjected to.

5. PRINCIPLES

Being Customer focussed

Meeting the needs of our community is our core business. Ensuring Complainants can easily access the Complaint management process and that we listen to Complainants and deal with them promptly and sensitively.

Getting it right

Having a clear process for Complaint management, with staff who are equipped to actively resolve Complaints whilst focussing on the outcome for the Complainant and Council.

Being open and accountable

Publishing clear, accurate and complete information about how to complain, and how and when to take Complaints further. Ensuring we communicate our timeframes and provide honest, evidence-based explanations when giving reasons for decisions whilst keeping full and accurate records.

Acting fairly

Treating the Complainant impartially and without prejudice. Ensuring that Complaints are investigated thoroughly and fairly to establish the facts of the case and that any decisions are proportionate, appropriate and fair. We will treat both staff and Complainants involved in a fair manner.

Putting things right

Acknowledging mistakes and apologising where appropriate. Considering all relevant factors we will provide prompt, appropriate and proportionate remedies.
Seeking continuous improvement

Using all feedback and the lessons learnt from Complaints to improve service design and delivery.

The Council:

- is committed to ensuring individual and community expectations in response to Requests for service and requests for information are met;

- strives to ensure that such requests are responsibly managed in a way to appropriately manage the limited resources, both human and financial, available to the Council and that public funds are appropriately managed and utilised;

- welcomes Complaints as a form of feedback and will use them to assist in identifying service improvement opportunities;

- values integrity, responsible management, fairness and equity, and will continue to strive to maintain the highest standards in its dealings with its Customers while meeting the needs of the community;

- is committed to identifying, investigating and wherever possible resolving Complaints and grievances;

- considers that principles of economy, efficiency, effectiveness, fairness, impartiality and responsiveness should underpin Council service delivery; and

- recognises the importance of transparency in decision making and the need to provide a fair and objective procedure for the review of all decisions and services provided.

The considerations articulated above are of utmost importance in the Council’s endeavours to retain the trust, confidence and support of its community.

6. POLICY STATEMENT

Complaints and Requests for Service

Council's Customer Experience Policy details how a Customer can make a Complaint or request a new service or improvement to an existing service. The Policy also details how Council will respond to these Complaints and requests.

Malicious Frivolous or Vexatious Complaints or Requests for Service

If the Council or the Chief Executive Officer (CEO) determines that a request is malicious, frivolous, or vexatious, this is grounds to dismiss the request without taking any further action in relation to it.
A determination that a request is malicious, frivolous and/or unreasonable, must take into account:

- any similar requests previously made by the Customer (i.e. about the same service);
- the response and outcome to previous requests made by the Customer (if any);
- whether the service is capable of being provided by or required to be provided by the Council;
- whether the Customer has Sufficient Interest in the subject matter of the Complaint or request for service;
- the outcomes sought by the Customer; and
- the resources required to provide the service (to ensure that it is not an unreasonable diversion of public resources).

A decision to take no further action in respect of a request that is malicious, frivolous, and/or unreasonable will be communicated to the Customer making the request in writing.

A person that persists in making the same or similar requests for service will be treated as a Complainant under this policy and may be managed and dealt with under the provisions for dealing with unreasonable Complainant conduct.

Requests for Information

Making a Request for Information

*Freedom of Information (FOI)*

Any request for information that falls under the provisions of the *Freedom of Information Act 1991* must be managed and made in accordance with the provisions of that Act. Customers wishing to request information under FOI must fill out the relevant application form. Fees and charges are associated with these FOI requests.

*Other Requests*

Under the LG Act, Council is required to make certain information and documents publicly available. Such information and documents are ordinarily available on the Council’s website, or otherwise may be available for inspection free of charge at the Civic Centre, or a copy provided upon request and upon payment of any applicable fee (as detailed in Council’s Fees and Charges Register).

Certain information and documents may be ordered to be kept confidential by the Council pursuant to Section 90 and 91 of the LG Act. Any request for information that falls within this category will be refused and the Customer making the request will be notified within 5 calendar days of the reason for the refusal of the request. Requests for confidential information made under the Freedom of Information Act will be dealt with in line with that Act.
Any other request for information will be received and considered on its merits, and at the absolute discretion of the CEO. The request may be granted in part or in full and access provided to the documents or information or a copy provided upon payment of any applicable fee or cost.

Request for information can be made in the following ways:

- in writing by letter sent to 131 Belair Road, Torrens Park, South Australia 5062; or
- verbally to Council staff; or
- by email or other electronic methods established by Council.

In some cases it may not be possible for the Council to progress a verbal request until the Customer has particularised his/her concerns in writing. If this is the case, the Customer making the request will be advised accordingly.

Malicious, Frivolous or Vexatious Requests For Information

If Council or the Chief Executive Officer determines that a request is malicious, frivolous, or vexatious, this is grounds to dismiss the request and cease any further action in relation to it. A determination that a request is malicious, frivolous and/or unreasonable, must take into account:

- any similar requests previously made by the person (i.e. about the same or similar information or documents);
- the response and outcome to previous requests made by the person (if any); and
- the resources required to provide the information (to ensure that it is not an unreasonable diversion of public resources).

A decision to take no further action in respect of a request that is malicious, frivolous, and/or unreasonable will be communicated to the person making the request in writing.

A person that persists in making the same or similar requests for service will be treated as a Complainant under this policy and may be managed and dealt with under the provisions for dealing with unreasonable Complainant conduct.

Unreasonable Complainant Conduct

Occasionally a Complainant may engage in unreasonable Complainant conduct. A Complainant’s conduct is unreasonable if it has unacceptable consequences for the Council, the Council Officers who may be involved in managing his/her Complaint(s) and/or any other person. Unreasonable Complainant conduct includes, but is not limited to:

a) using unreasonable persistence by:
   - persisting with a Complaint with the Council even though it has been comprehensively considered and the Council has
notified the Complainant of and provided reasons for its position in respect of that Complaint; and/or

- even where all avenues of internal review have been exhausted, showing an inability to accept the Council's decision in respect of the Complaint.

b) Using unreasonable demands by insisting on outcomes that are unattainable, (e.g. demanding outcomes that are beyond the Council's power to deliver and/or demanding unreasonable outcomes that the Council is not in a position to deliver). Other examples include insisting on a 'moral' outcome, (e.g. justice in the community interest, when really a personal interest is at stake) and demanding an apology and/or compensation when no reasonable basis for expecting such an outcome exists.

c) Using unreasonable arguments including making irrational assertions that are not based on fact and/or insisting that a particular solution is the only correct one, without consideration for valid contrary or alternative arguments.

d) Using unreasonable behaviour including:

- confrontational behaviour that shows a lack of respect for others and otherwise constitutes rude and/or aggressive conduct;

- making threats (whether implied or express) or including inappropriate, offensive, or abusive content in or associated with a Complaint;

- continuing with a Complaint which is not supported by any evidence and is unsubstantiated;

- making a frivolous or vexatious Complaint or a Complaint about a matter that is beyond the Council's jurisdiction or outside of the Council's control;

- otherwise making excessive demands on Council's resources, including by making frequent and numerous Complaints to the Council that are suggestive of a compulsive course of conduct that is, objectively, without basis other than to complain and consume resources; and/or

- alleging bias and/or corruption on the part of the Council in connection with his/her Complaint to third parties simply because the Council's decision was not what the Complainant desired or expected.

e) Using unreasonable lack of cooperation including by:

- sending excessive amounts of correspondence and large quantities of information which is not organised, sorted, classified or summarised, where the Complainant is clearly capable of doing this;
COUNCIL POLICY

Unreasonable Complaints and Requests

- displaying unhelpful behaviours (e.g. withholding information, acting dishonestly, misquoting others);
- refusing to define the issue(s) subject of his/her Complaint; and/or
- remaining resistant to any reasonable explanation that counters the Complainant’s views.

Unreasonable Complainant conduct does not arise if a Complainant makes a Complaint to an external authority.

Where the Council determines that a Complainant has engaged in unreasonable Complainant conduct the Council may choose to deal with the Complainant in accordance with this Policy.

7. POLICY REVIEW

In order to ensure Council continues to provide the best possible service responses to its customers, this policy will be subject to periodic evaluation, with delegation provided to the CEO to make minor amendments that do not change the intention of the policy. Next review November 2022.

8. VERSION HISTORY

<table>
<thead>
<tr>
<th>VERSION</th>
<th>AUTHOR(S) POSITION</th>
<th>CHANGES</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0</td>
<td>Valerie Reynolds</td>
<td>Policy Draft</td>
<td>11 September 2018</td>
</tr>
<tr>
<td>2.0</td>
<td>Matthew Spinelli</td>
<td>Policy Draft</td>
<td>10 September 2019</td>
</tr>
</tbody>
</table>

9. DOCUMENT CONTROL

<table>
<thead>
<tr>
<th>Responsible Department</th>
<th>Customer Experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delegations Contained within Policy</td>
<td>NO</td>
</tr>
<tr>
<td>Classification</td>
<td>Customer Experience</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Applicable legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Government Act 1999 – section 270</td>
</tr>
<tr>
<td>Independent Commissioner Against Corruption Act 2012</td>
</tr>
<tr>
<td>Freedom of Information Act 1991</td>
</tr>
<tr>
<td>Ombudsman Act 1972</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Related Policies &amp; Corporate Documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requests for Services Policy</td>
</tr>
<tr>
<td>Code of Conduct for Council Members</td>
</tr>
<tr>
<td>Complaints Handling Procedure under Elected Member</td>
</tr>
<tr>
<td>Code of Conduct</td>
</tr>
<tr>
<td>Code of Conduct - Council Employees</td>
</tr>
<tr>
<td>Code of Conduct for Volunteers</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Additional references</th>
</tr>
</thead>
</table>

<p>| Endorsed by Council | Click here to enter a date. | Item No: | Insert item number |</p>
<table>
<thead>
<tr>
<th>COUNCIL POLICY</th>
<th>Unreasonable Complaints and Requests</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective Date</td>
<td>Click here to enter a date.</td>
</tr>
<tr>
<td>Next Review Date</td>
<td>Click here to enter a date.</td>
</tr>
<tr>
<td>Policy Set ID</td>
<td>[insert]</td>
</tr>
<tr>
<td>Template Set ID</td>
<td>3345084</td>
</tr>
</tbody>
</table>
## Cities Power Partnership Pledge Assessment

### CCP Theme: Renewable Energy

<table>
<thead>
<tr>
<th>Suggested CCP Actions</th>
<th>Potential City of Mitcham Pledge</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Use strategic and statutory planning processes to promote renewable energy - both at the residential, commercial and larger scale.</td>
<td>• Will be articulated as part of Energy Smart Mitcham within the <em>DRAFT</em> Environment and Sustainability Strategy.</td>
</tr>
<tr>
<td>(2) Provide council resources to educate and support the uptake of renewable energy, such as by hiring an internal renewable energy support officer or establishing an independent body (such as the Moreland and Yarra Energy Foundations).</td>
<td>• City of Mitcham has already installed solar PV on Civic Centre and the Melrose Park depot.</td>
</tr>
<tr>
<td>(3) Install renewable energy (solar PV and battery storage) on council buildings for example childcare facilities, libraries, street lighting, recreation centres, sporting grounds, and council offices.</td>
<td>• There are a range of current recommendations to install more Solar PV on Mitcham buildings as flagged by recent Level 2 energy audits - <em>Requires Funding</em>.</td>
</tr>
<tr>
<td>(4) Support community facilities accessing renewable energy through incentives, support or grants.</td>
<td>• City of Mitcham already purchase a small % of green power via its LGAP electricity contract.</td>
</tr>
<tr>
<td>(5) Power council operations by renewables, directly (with solar PV or wind), or by purchasing Greenpower (from electricity retailers). Set targets to increase the level of renewable power for council operations over time.</td>
<td></td>
</tr>
<tr>
<td>(6) Encourage local businesses and residents to take up solar PV, battery storage and solar hot water heating. This can be done through providing incentives (such as solar bulk buy schemes or flexible payment options) or streamlining approval processes (such as removing planning and heritage barriers to solar PV).</td>
<td></td>
</tr>
<tr>
<td>(7) Support community energy projects (with location and planning support) so that residents (such as renters) can band together and invest in community renewable energy projects.</td>
<td></td>
</tr>
<tr>
<td>(8) Opening up unused council managed land for renewable energy, for example land fills, and road reserves.</td>
<td></td>
</tr>
<tr>
<td>(9) Facilitate large energy users collectively tendering and</td>
<td></td>
</tr>
</tbody>
</table>
purchasing renewable energy at a low cost.

(10) Set minimum renewable energy benchmarks for new developments, for example Denman Prospect, ACT requires every new house to install a minimum solar PV system.

(11) Electrify public transport systems (for example buses operated by council) and fleet vehicles and power these by 100% renewable energy.

(12) Lobby electricity providers and state government to address barriers to renewable energy take up at the local level (whether these be planning, technical, economic or policy related).

| Energy Efficiency | (1) Set minimum energy efficiency benchmarks for all planning applications. |
| | (2) Adopt best practice energy efficiency measures across all council buildings, and support community facilities to adopt these measures. |
| | (3) Public lighting can use a large proportion of a city’s energy budget - roll out energy efficient lighting (particularly street lighting) across the municipality. |
| | (4) Provide incentives (for example rate reductions) for best practice developments such as streamlined planning processes, and support for retrofitting energy efficiency measures for existing buildings. |
| | (5) Incentivise the deployment of energy efficient heating and cooling technologies. |
| Transport | (1) Ensure Council fleet purchases meet strict greenhouse gas emissions requirements and support the uptake of electric vehicles. |
| | (2) Provide fast-charging infrastructure throughout the city at key locations for electric vehicles. |
| | (3) Encourage sustainable transport use (public transport, walking and cycling) through Council transport |
| | • Implement Bulk LED Street Lighting Project. Requires Funding. |
| | • ESD Design guideline for new builds – currently in DRAFT format and being applied to Mitcham library development. |
| | • Budget bid submitted for two fast charging stations - Requires Funding. |
| | • Commitments around electric vehicles and cycling in DRAFT Integrated Transport Strategy - Requires Funding. |
planning and design.

(4) Substantial savings in transport energy use can be achieved by designing more compact cities with access to high quality public and active transport services and facilities.

(5) Ensure that new developments are designed to maximize public and active transport use, and are designed to support electric vehicle uptake.

(6) Providing for adequate cycle lanes (both space and connectivity) in road design and supporting cyclists through providing parking, and end-of-ride facilities (covered, secure bike storage, showers, bicycle maintenance and incentives).

(7) Reduce or remove minimum car parking requirements for new housing and commercial developments where suitable public transport alternatives exist.

(8) Lobby state and federal governments for improvements to planning legislation to promote sustainable transport options, and increased investment in and provision of public transport services.

(9) Consider disincentives for driving high emitting vehicles such as congestion pricing, or a tiered payment system for residential car parking permits where high emitting vehicles pay more.

Working Together & Influence

(1) Set city-level renewable energy or emissions reduction targets and sustainable energy policies to provide a common goal and shared expectations for local residents and businesses.

(2) Lobby state and federal government to address barriers to the take up of renewable energy, energy efficiency and/or sustainable transport, and to support increased ambition. For

(5) Will be articulated as part of Energy Smart Mitcham within the DRAFT Environment and Sustainability Strategy.
example working to lobby on the Smart Energy Communities policy.

(3) Set up meetings and attend events, such as the Community Energy Congress or the Cities Power Partnership Summit, where like-minded cities can address common concerns and learn from others’ experience.

(4) Implement an education and behaviour change program to influence the behaviour of council officers, local residents and businesses within the municipality to drive the shift to renewable energy, energy efficiency and sustainable transport.

* Items highlighted in green are pledges that are currently achievable by City of Mitcham
High Level Energy Efficiency Audit

Energy Efficiently Activities:

Recommendations for the City of Mitcham Council.

August 2017
Date: 4 August 2017

Officer: Ben Leonello

Dear Ben,

Recommendations of the High Level Audit of Energy Efficiency Activities Project

Thank you for your input to the high level energy efficiency audit that was carried out between November 2016 and February 2017 by Lucid Consulting Australia, on behalf of the Local Government Association of South Australia.

The aim of the audit was to understand the types of energy efficiency activities that were currently underway in your council, and to assist in identifying future energy efficiency initiatives.

The following initiatives have been identified for the City of Mitcham Council to further reduce council’s energy usage costs and carbon emissions:

1. It is understood that a carbon emission reduction target has recently been set by council within its Draft Strategic Plan (25% reduction by 2020 compared to 2014-15).
   - In addition to the reduction target, it is recommended that City of Mitcham defines clear boundaries for carbon calculations and a process to review actual performance against target on a regular basis.

2. Further monitor energy consumption in council buildings which could be done by setting up monthly exception reporting and allocating assets to staff members. Investigate anomalies/spike in energy consumption.

3. Using findings from energy audits for Mitcham library, Melrose Park Depot, Mitcham Community Centre, Civic Centre and Mortlock Park, it is recommended that Council prepares project specifications for implementation of energy efficiency upgrades.

4. Consider energy audits and upgrade of council buildings leased out to sport clubs and community groups and investigate feasibility of co-funding upgrades with current tenant.

5. Continue to replace street lights on CLER tariff with LED’s as these lights are owned by your council.

The tool and fact sheets that were also developed as part of this project, to provide information about potential energy efficiency activities and currently available grant and investment sources, can now be found on the LGA website: www.lga.sa.gov.au/climatechange

We trust that you will find the outputs of this project useful in developing and implementing future energy efficiency projects.

Yours sincerely,

Victoria Brown
Senior Policy Advisor
Notes

The above recommendations have been prepared by Lucid Consulting Australia and are based on information provided by you council during the audit: surveys, emails, phone discussions, meetings etc.

No detailed energy audit has been undertaken.

The above recommendations are not a substitute for a council-wide energy audit which would investigate the initiatives further, and rank the recommendations from the most beneficial to the least.
Denman Tennis Club, ball stop netting on southern fence

Denman Tennis Club, ball stop netting on northern fence
Blackwood Tennis Club, ball stop netting on first southern fence

Blackwood Tennis Club, ball stop netting on second southern fence
Hopeward Tennis Club, ball stop netting on northern fence

Hopeward Tennis Club, ball stop netting on southern fence
Kingswood Tennis Club, ball stop netting on western fence
EXTERNAL COLOUR SCHEDULE

Clients Name: C. & P. BRAKE

Site Address: LOT 6, ARCADIA CRT., MITCHAM.

<table>
<thead>
<tr>
<th>Item</th>
<th>Colour</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stonework (front facade)</td>
<td>Travertine Veneer Sandstone</td>
</tr>
<tr>
<td>Roof coverings (Colorbond)</td>
<td>Monument</td>
</tr>
<tr>
<td>Fascia</td>
<td>Monument</td>
</tr>
<tr>
<td>Gutter (Colorbond)</td>
<td>Monument</td>
</tr>
<tr>
<td>Downpipes</td>
<td>Dulux- Pastel M0.5 EE3.0</td>
</tr>
<tr>
<td>Eaves</td>
<td>Solver Parchment</td>
</tr>
<tr>
<td>External Render</td>
<td>Dulux- Pastel M0.5 EE3.0</td>
</tr>
<tr>
<td>Garage Doors</td>
<td>Dulux- Pastel M0.5 EE3.0</td>
</tr>
<tr>
<td>Windows</td>
<td>Commercial Alum. - Shoji White</td>
</tr>
<tr>
<td>Door Frames</td>
<td>Commercial Alum. - Shoji White</td>
</tr>
<tr>
<td>Entrance Door</td>
<td>Sikkens Ebony stain</td>
</tr>
<tr>
<td>Canopy &amp; Balcony U/side lining</td>
<td>Western Red Cedar – Ebony stain</td>
</tr>
</tbody>
</table>
ITEM 11.6 - ATTACHMENT A
### Declaration of Correctness

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886

Solicitor/Registered Conveyancer/Agent

### Lodging Details

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>FEES</td>
<td></td>
</tr>
</tbody>
</table>

**R.G.O.**

**POSTAGE**

**NEW C.T.**

**Agent Code**

**MSLM**

### Titles, Crown Leases, Declarations Etc.

Titles, Crown Leases, Declarations etc. lodged with Instrument to be filled in by person lodging.

1. CT 56401364
2. 
3. 
4. 
5. 

**Assessor**

Please issue new certificates of title as follows.

1. 
2. 
3. 

### Delivery Instructions

**Agent to complete**

Please deliver the following Item(s) to the undermentioned Agent(s).

<table>
<thead>
<tr>
<th>Item(s)</th>
<th>Agent Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Copy of Deed</td>
<td>MSLM</td>
</tr>
<tr>
<td>CT 56401364</td>
<td>0SA876</td>
</tr>
</tbody>
</table>

**Correction**

**Passed**

**Registered**

1 Aug 2005
APPLICATION TO NOTE LAND MANAGEMENT AGREEMENT
(PURSUANT TO S 57(5) OF THE DEVELOPMENT ACT 1993)

To the Registrar-General:

1. CITY OF MITCHAM ("the Council") of 131 Belair Road, Torrens Park, SA 5062 has entered into the attached Land Management Agreement dated the 7th day of July 2005 ("the Agreement") with GALALIVE DEVELOPMENTS PTY LTD ACN 106 428 924 and PROTON DEVELOPMENTS (SA) PTY LTD ACN 106 445 185 ("the Owners") of PO Box 3137 Unley SA 5061 pursuant to s 57(2) of the Development Act 1993 ("the Act").

2. The Agreement relates to the whole of the land comprised in Certificate of Title Register Book Volume 5840 Folio 364 being Allotment 103 in Filed Plan 18759 ("the Land").

NOW THEREFORE the Owner applies pursuant to s 57(5) of the Act to note the Agreement against the land.

DATED the 7th day of July 2005.

EXECUTED by GALALIVE DEVELOPMENTS PTY LTD ACN 106 428 924 in accordance with Section 127 of the Corporations Act:

Signature of Director: Christine Galanopoulos
Print Full Name: Christine Galanopoulos

Signature of Director/Secretary: Spears Gromov
Print Full Name: Spears Gromov

EXECUTED by PROTON DEVELOPMENTS (SA) PTY LTD ACN 106 445 185924 in accordance with Section 127 of the Corporations Act:

Signature of Director: Nikos Vrados
Print Full Name: Nikos Vrados

Signature of Director/Secretary: Nikitas Vrados
Print Full Name: Nikitas Vrados

NB: This form may be used only when no panel form is suitable. A penalty of up to $2000 or 6 months imprisonment applies for improper witnessing.
THIS DEED IS MADE THE

\[\text{Jul} \quad \text{Jul}\]

2005

BETWEEN:
CITY OF MITCHAM of 131 Belair Road, Torrens Park SA 5062 (hereinafter with
its successors and assigns called "the Council") of the one part

AND
GALALIVE DEVELOPMENTS PTY LTD (ACN 106 428 924) and PROTON
DEVELOPMENTS (SA) PTY LTD (ACN 106 445 185) both of P.O. Box 3137
Unley SA 5061 (hereinafter with its successors and assigns called "the Owner")
of the other part

RECITALS:

A. The Owner is the proprietor of an estate in fee simple in the whole of the land
comprised in Certificates of Title Register Book Volume S34 Page 364. The land is
collectively described and now known as allotment 103 in the area named Mitcham
and being portion of filed plan No 19759 (herein after called "the land").

B. By the Development Application No 080 / D530 /03 the Owner applied to the Council
for approval pursuant to the Development Act, 1993 (hereinafter called the "Act") to
divide portion of the land into 14 additional "Torrens Title" allotments. A copy of the
proposal plans for the land division is annexed hereto and marked with the letter "A"
(hereinafter called "the Plan of Division").

C. The Council is prepared to grant approval to the land division subject to the parties
entering into a Land Management Agreement to control (inter alia) the form of future
buildings that may be established on the land, the location of any such buildings and
associated outbuildings, site coverage, the under-grounding of services to any such
dwellings, the protection and removal of trees on/from the land (the criteria).

D. This Deed only applies to the land comprising the proposed allotments numbered 1-
14 inclusively on the Plan of Division and the Tree Retention and Building Envelope
Plans;

E. Pursuant to the provisions of section 57 (2) of the Act the Owner has agreed with the
Council to enter into this Deed relating to the future development, management,
preservation and conservation of that portion of the Land comprised in the proposed
allotments numbered 1-14 inclusively in the Plan of Division subject to the terms and
conditions that follow so as to give effect to the criteria.

OPERATIVE PART

1. INTERPRETATION

1.1 The parties acknowledge that the matters set out in clauses A to E inclusively are true
and accurate and agree that they shall form part of the terms of this Deed.

1.2 In the interpretation of this Deed unless the context shall otherwise require or admit:

(a) words and phrases used in this Deed which are defined in the Act, shall
unless otherwise defined by the provisions of this Deed, have meanings ascribed
to them by the Act;

(b) references to a statute or subordinate legislation or to the Development Plan
made pursuant to the Act, shall include all statutes, subordinate legislation an
Development Plans amending, consolidating or replacing the statute or
subordinate legislation or Development Plan referred to;
(c) the term "the Owner" where the Owner is a company includes its successors, assignees and transferees and where the Owner is a person, includes his or her heirs, executors, administrators and transferees and where the Owner consists of more than one person or company the term includes each and every one or more of such persons or companies jointly and each of them severally and their respective successors, assigns, heirs, executors administrators and transferees of the companies or persons being registered as the proprietor of an estate in fee simple in the land or any part thereof and subject however to such encumbrances, liens and interest as are registered and notified by memoranda endorsed on the title thereof;

(d) the term "person" shall include a corporate body;

(e) the term "the Land" shall include any part or parts of the Land;

(f) the term "dwelling" shall mean a building or part of a building used as a self-contained residence;

(g) the term "outbuilding" shall mean a building associated with a dwelling such as a pergola or other like structure;

(h) the term clearance in relation to the trees shall mean the killing, destruction, removal or burning of such trees; severing of branches, limbs, stems or trunks of such trees; any other substantial damage to trees;

(i) the term "Contemporary Style" shall mean building design that incorporates the use of single roof pitch or flat roofs, solar heating, floor to ceiling full height windows and timber features. Contemporary homes include geometric forms with large over hangs, split levels, large amounts of fixed glass, and unique wood and stone facings. Exteriors tend to be plain and interior rooms include very open floor plans.

(j) words importing the singular number or plural number shall be deemed to include the plural number and the single number respectively,

(k) words importing any gender shall include every gender; and

(l) Any clause headings or marginal notes are for reference purposes only and shall not be resorted to in the interpretation of this Deed.

1.3 If any provision of this Deed shall be found by a Court of competent jurisdiction to be invalid or unenforceable in law then in such case the parties hereby request and direct such Court to sever such provision from this Deed.

1.4 The law governing the interpretation and implementation of the provisions of This Deed shall be the law of South Australia.

1.5 The parties expressly declare and agree that where an inconsistency exists between the provisions of this Deed and the provisions of the Development Plan, the provisions of this Deed shall prevail.

2. THE OBLIGATION OF THE OWNER

The Owner has prepared certain plans showing the land the subject of the application and which are attached hereto and marked Plan of Division and SK7 (the criteria
plans). The parties have agreed the development of the land shall take place with the criteria herein and the details set out in the criteria plans.

2.1 Location of Building Work

2.1.1 The Owner shall not cause, suffer or permit to be erected on Lots 1-14 inclusive any dwelling that falls outside the setback requirements as defined hereto otherwise approved in writing by the Council. This clause does not apply to outbuildings less than 10m² in area and not higher than 2.5m above finished ground level.

2.1.2 In any event the setback

2.1.2.1 of any dwelling shall not be less than

6m to Arcadia Court and 3m to Anderson Ave

1m from any side boundary and 5m from the rear boundary for a single story building

If the dwelling is more than one storey (including any split level building) the building must comply with Council Development Plan guidelines with respect to side boundary and rear boundary setbacks.

2.1.2.2 of any outbuilding shall not be less than

6m to Arcadia Court and 3m to Anderson Ave

1m from any side boundary

2.2 Form of Dwellings

2.2.1 The Owner shall not cause, suffer or permit to be erected on Lots 1-14 inclusive any dwelling which is more than 8 metres when measured from natural ground level to roof line, unless otherwise approved in writing by the Council.

2.2.2 Site Coverage

The Owner shall not cause, suffer or permit to be erected on each of Lots 1-14 inclusive any combination of buildings such as to exceed the site coverage expressed as a percentage figure of the area of each allotment as shown in the table below and marked within each proposed allotment on the criteria plan annexed hereto otherwise approved in writing by the Council

<table>
<thead>
<tr>
<th>Lot Number</th>
<th>Percent Site Cover</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>44</td>
</tr>
<tr>
<td>2</td>
<td>44</td>
</tr>
<tr>
<td>3</td>
<td>44</td>
</tr>
<tr>
<td>4</td>
<td>40</td>
</tr>
<tr>
<td>5</td>
<td>40</td>
</tr>
<tr>
<td>6</td>
<td>40</td>
</tr>
</tbody>
</table>
2.3 Retention of Trees

The Owner will not cause, suffer or permit the clearance or removal of any of the trees as identified in the attached plans without the prior written consent of the Council irrespective of whether such trees are "significant trees" for the purposes of the Development Act. In the event of an emergency where the clearance of a tree or the need to engage in tree-damaging activity becomes necessary to prevent damage to property or threat to life and it is not possible to obtain the prior consent of the Council to undertake clearance to minimise the threat to life or property then the Owner may undertake only such clearance or tree-damaging activity as is strictly necessary and in doing so shall minimise as much as practical any damage to the trees. The Council is to be notified as soon as possible after any such emergency clearance is undertaken. Prior to undertaking any emergency clearance or tree-damaging activity the Owner agrees to make every endeavour to obtain at least the verbal approval of the Council to undertake any such emergency work.

2.4 Tree Protection Zones

The Owner will not cause, suffer or permit the construction of any building work, excavation and/or filling of the land, storage of materials to occur within 5m of designated trees this being the tree protection zone as marked (where applicable) on the relevant allotments on the criteria plan with the exception of the tree on Lot 5 where a 7m tree protection zone will apply.

2.5 Common Housing Theme

The parties wish to ensure a commonality of building design and theme namely "Contemporary Style" for all dwellings to be established on the land. Accordingly the parties agree that the dominant theme of any dwellings to be established on Lots 1 - 14 inclusive should reflect a "Contemporary Style" and dwellings should include in their construction feature natural materials such as stone, sandstone, approved face brick or block, render, treated/finished timber and glass.

2.6 Materials and Colours

The dwellings created should seek to embrace the natural surroundings with materials and colours having natural tones. Dwellings shall include any of the following materials
as cladding; approved stone, sandstone, approved face brick or block, render, treated 
/finished timber, glass.

The following materials shall not be used as wall cladding; extruded sheet Zincalume, 
Colorbond, unpainted, un-rendered fibre cement sheeting; untreated or unfinished 
timber or concrete and highly reflective glass.

Roofing materials shall not cause undue glare, pitched roofs shall not be constructed 
of zincalume or galvanised metal. If the roof is pitched it should be clad with tiles, 
shingles or Colorbond material.

The roofing materials shall not be finished in white, blue or have a gloss finish.

2.7 Landscaping Services and Driveway

2.7.1 Landscaping of front garden areas (including planting, grassing and/or paving) to the 
kerb line shall be established within 6 months of completion of dwelling and then 
maintained in good health with any diseased or dead plants to be replaced within a 
reasonable period of time.

2.7.2 All services and infrastructure shall be placed underground and shall be provided to 
each of the 14 lots.

2.7.3 Individual driveways will be from established access inverts as provided unless 
otherwise agreed to by council. The driveway shall be established in accordance with 
recognised engineering techniques (and to the reasonable satisfaction of the Council) 
prior to the occupation of any dwelling to be established on Lots 1-14 inclusive.

2.8 Fencing

Fences shall wherever possible be constructed of a material featured in the design of 
the dwelling it encloses. No metal clad fencing is to be established.

3. RIGHT OF ENTRY

3.1 The Council and any employee or agent of the Council authorised by the Council may 
at any reasonable hour enter Lots 1-14 inclusive for the purpose of:

3.1.1 inspecting any one or more of the trees

3.1.2 inspecting the land generally as to the matters in clause 2 hereof

3.1.3 exercising any other powers of the Council under this Deed or pursuant to law

3.2 If the owner is in breach of any provision of this Deed, the Council may, by notice in 
writing served on the Owner, specify the nature of the breach and require the Owner to 
remedy, by reasonable means, the breach within such time as may be nominated by 
the Council in the notice (being not less than twenty-eight (28) days from the date of 
service of the notice and if the Owner fails so to remedy the breach the Council or as 
servant or agents may carry out the requirements of the notice and in doing so may 
enter and perform any necessary works upon Lots 1 - 14 as the case may be and 
recover any reasonable costs thereby incurred from the Owner. Should the Council 
remove anything from the land which may include but shall not be limited to a building 
or material of any kind the Council and its servants or agents are hereby authorised 
and empowered by the Owner to remove the said tiding or things from the land 
(provided that the said thing or things have not previously been approved by the
Council) and dispose of it or them in any manner determined by the Council
PROVIDED THAT if the said thing or things shall have any monetary value then the
Council shall use its best endeavours to realise that monetary value and shall after the
disposal account to the Owner and pay to it the realised value less all expenses
reasonably incurred by the Council in such removal and disposal.

4. OPERATION OF THIS DEED

The parties expressly declare and agree that the provisions of this Deed shall not be binding or
impose any obligation upon them unless and until the date the Registrar-General deposits the
Plan of Division in the Lands Tales Registration Office pursuant to the provisions of the Real
Property Act, 1866.

5. RESCISSION

In the event that any development authorisation obtained for the land division lapses or expires
by virtue of the provisions of the Act without being implemented by the Owner or in the event
that the Registrar-General does not deposit the Plan of Division in the Lands Titles Registration
Office the Council agrees to do all things necessary to rescind this Deed at the request of the
Owner. The reasonable costs of and incidental to the preparation, stamping and registration of
the Deed of Rescission should be borne by the Owner.

6. MISCELLANEOUS PROVISIONS

6.1 This Deed may not be varied except by a Supplementary Deed signed by the Council
and the Owner.

6.2 The Council in its absolute discretion may waive compliance by the Owner with the
whole or any part of the obligations on the part of the Owner herein contained provided
that no such waiver shall be effective unless expressed in writing and signed by the
Council. Further if the Council waives compliance in respect of any item whether once
or more than once, it shall not constitute waiver forever in respect of this item.

6.3 This Deed contains the whole agreement between the parties in respect of the
matters referred to herein.

6.4 Notice for the purposes of this Deed shall without prejudice to any other means of
giving notice be properly served on the Owner if it is in writing and signed for or on
behalf of the Council and either delivered by hand or sent by post or sent by facsimile
transmission to the Owner to the fast known address of the Owner. Such notice shall
be deemed to have been given at the time of such delivery or upon the date two (2)
days after such posting.

6.5 Notice for the purpose of this Deed shall without prejudice to any other means of
giving notice be properly served on the Council if it is posted, sent by facsimile
transmission or delivered to the principal office of the Council.

6.6 The Council may delegate any of its powers under this Deed to any person.

6.7 The requirements of this Deed are at all times to be construed as additional to
the requirements of the Act and any other legislation affecting Lots 1-14 inclusive. The
parties further agree that nothing herein contained shall in any way be interpreted as
meaning that the Owner is not required to obtain all relevant approvals, consents etc
for the development of any buildings or structures on the land or any other
development that may be undertaken on the land pursuant to the Development Act
1993 or any other legislation.
6.8 The Owner indemnifies the Council and agrees to keep it forever indemnified in respect of the whole of its costs including legal costs and expenses of and incidental to the negotiation and preparation of this Deed and the implementation of as terms. The Owner shall pay all stamp duty and registration fees associated with the Deed.

6.9 Each party shall do and execute all such acts documents and things as shall be necessary to ensure that this Deed is registered and memorial thereof entered on the Certificates of Title for the Land pursuant to the provisions of Section 57(5) of the Act.

6.10 The Owner acknowledges that should it breach any of the provisions of this Deed in particular, by way of the unauthorised clearance of trees that are to be retained or establishing buildings/structures beyond the building envelope areas, the Council may institute enforcement or other action against it pursuant to the Act.

IN WITNESS WHEREOF the parties hereto have executed this Deed pursuant to Section 57 of the Development Act 1993.

THE COMMON SEAL of the CITY OF MITCHAM
Was hereto affixed in the presence of:

[Signature]
Mayor

[Signature]
The Chief Executive Officer

EXECUTED BY
GALALIVE DEVELOPMENTS PTY LTD
ACN 106 428 924 in accordance with the Corporations Law

[Signature]
Director

[Signature]
Director/Secretary

EXECUTED BY
PROTON DEVELOPMENTS (SA) PTY LTD
ACN 106 445 165 in accordance with the Corporations Law

[Signature]
Director

[Signature]
Director/Secretary

Bank SA being a person with a legal interest in the land by Virtue of Mortgage No. M6747474 hereby consents to the registration of this Deed over the land.
St George Bank Limited ACN 055 513 070 of 97 King William Street Adelaide SA 5000 as Mortgagee by Virtue of Mortgage No. 9717171 consents to the registration of this Deed over the land.

ST.GEORGE BANK LTD ABN 92 055 513 070
By its Attorney Roger David Campbell of 97
King William Street ADELAIDE SA 5000 who
certifies that he is Commercial Securities Officer
of the said Bank and that he has no notice of any
revocation of the said Power of Attorney.

[Signature]
Power of Attorney No. 8450031
21-7-2005

Signature of Witness
Jocelyn Louise O'Neil
Full Name of Witness
97 King William Street ADELAIDE SA 5000
Address
(08) 8424 4877
Telephone No.