

## **ITEM NUMBER: 20.2**

### **CONFIDENTIAL REPORT**

### **SYNTHETIC TURF ON VERGES**

*Pursuant to Section 83(5) of the Local Government Act 1999 the Report attached to this agenda and the accompanying documentation is delivered to the Council Members upon the basis that the Council consider the Report and the documents in confidence under Part 3 of the Act, specifically on the basis that Council will receive, discuss or consider:*

**h. Legal advice.**

**Recommendation – Exclusion of the Public – Section 90(3)(h) Order**

- 1** That pursuant to Section 90(2) of the *Local Government Act 1999* Council hereby orders that the public be excluded from attendance at this meeting with the exception of the Chief Executive Officer and Staff in attendance at the meeting in order to consider Report No: 310/19 –Synthetic Turf on Verges in confidence.
- 2.** That in accordance with Section 90(3) of the *Local Government Act 1999* Council is satisfied that it is necessary that the public be excluded to consider the information contained in Report No: 310/19 – s221 Authorisation - Synthetic Turf on Verge at 1 Richardson Avenue, Glenelg North on the following grounds:
  - h.** pursuant to section 90(3)(h) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is legal advice which has been provided by HWL Ebsworth Lawyers on instructions from Council.

In addition, the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.

- 3.** The Council is satisfied, the principle that the meeting be conducted in a place open to the public, has been outweighed by the need to keep the information or discussion confidential.
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Item No: **20.2**

Subject: **SYNTHETIC TURF ON VERGES**

Date: 13 August 2019

Written By: General Manager

General Manager: City Assets and Services, Mr H Lacy

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## **SUMMARY**

Administration received a request in May 2019 from the landowner of a new dwelling under construction at 1 Richardson Avenue, Glenelg North for permission under s221 of the Local Government Act to undertake landscaping works on the verges of Margaret St and Richardson Avenue, Glenelg North. The proposal included the installation of new concrete (washed aggregate) footpaths, tree planting, gardens and installation of modern synthetic turf.

Administration undertook an assessment of the proposed landscaping taking account of the Verge Management Policy, previous approvals given under s221 and the fit of the proposed landscaping within the local urban environment.

Approval was subsequently given under delegation for all elements of the landscaping including installation of modern synthetic turf.

At its meeting on 23 July 2019, Council expressed concerns about the use of synthetic turf due to possible environmental issues – principally lack of permeability for water uptake, possible heating of soil around root zones and heat island impact. Concern was also raised about long term maintenance and liabilities to Council if the material deteriorates.

Installation of the synthetic turf has now been completed.

This report addresses those concerns and makes recommendations for tightening of Council current Verge Management Policy to prohibit the future installation of synthetic turf on Council verges.

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## **RECOMMENDATION**

1. **That Council notes the previously issued authorisation under s221 of the Local Government Act for installation of modern synthetic turf on verges at 1 Richardson Avenue, Glenelg North (refer Attachment 4).**

2. That Administration review the performance of the synthetic turf on verges at 1 Richardson, Avenue Glenelg North after 1 year to assess the impact on newly planted street trees.
3. If there is an unreasonable adverse impact on the growth and development of the trees, Council consider whether a breach of condition has occurred which may warrant cancellation of the s221 authorisation.
4. That Council endorse a change to the Verge Management Policy to add synthetic turf to the prohibited verge treatments as listed at Clause 2.3.b of the Verge Management Policy.
5. That the proposed change in Policy apply to all new applications to install synthetic turf including any proposals to renew existing installations.
6. That the cost and ongoing maintenance of any approved synthetic turf installations be met by the property owners.

**RETAIN IN CONFIDENCE - Section 91(7) Order**

7. That having considered Agenda Item: 20.2 – Report No: 310/19 – Synthetic Turf on Verges in confidence under section 90(2) and (3)(h) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report, discussion and attachments (excluding Attachment 2 - Verge Management Policy) be retained in confidence for a period of 12 months.

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**COMMUNITY PLAN**

A Place that is Well Planned  
A Place that Provides Choices and Enhances Life

**COUNCIL POLICY**

Verge Management Policy  
Encroachments Policy

**STATUTORY PROVISIONS**

*Local Government Act 1999*

## **BACKGROUND**

A new dwelling is presently under construction at 1 Richardson Avenue, Glenelg North (corner of Margaret Street). As this is a corner allotment, there is an extensive verge on the eastern and southern site boundaries. Refer site plan shown in Attachment 1.

*Refer Attachment 1*

In May 2019, Administration received a request from the landowner for permission under s221 of the Local Government Act to undertake landscaping works on the verges of Margaret Street and Richardson Avenue, Glenelg North. The proposal included the installation of new concrete (washed aggregate) footpaths, tree planting, gardens and installation of modern synthetic turf.

Administration undertook an assessment of the proposed landscaping taking account of the Verge Management Policy, previous approvals given under s221 and the fit of the proposed landscaping within the local urban environment.

Approval was subsequently given under delegation for all elements of the landscaping including installation of modern synthetic turf.

At its meeting on 23 July 2019, Council expressed concerns about the use of synthetic turf due to likely environmental issues – principally lack of permeability for water uptake, possible heating of soil around root zones and heat island impact. Concern was also raised about long term maintenance and liabilities to Council if the material deteriorates.

This report addresses those concerns and makes recommendations for tightening of Council's current Verge Management Policy to prohibit the future installation of synthetic turf on Council verges.

## **REPORT**

### **Council Verge Management Policy**

Council considered a draft Verge Management Policy at its meeting on 26 May 2015. This draft policy included synthetic turf as an approved verge treatment and included basic technical requirements applicable for any approved installations.

Following debate, Councillors Lonie and Donaldson moved a motion to approve the draft policy, but with all references to synthetic grass removed. This motion was carried by 8 votes to 4 and the Policy was thereby endorsed. An extract from the minutes from the meeting of 26 May 2015 is presented in Attachment 2.

*Refer Attachment 2*

A copy of the Verge Management Policy as amended and approved at the Council meeting of 26 May 2015 is presented in Attachment 3. This policy is still in operation.

*Refer Attachment 3*

From a practical viewpoint, whilst Council resolved to remove all references to synthetic turf from the Verge Management Policy, it did not add synthetic turf to the list of prohibited verge treatments, meaning that policy was silent in this regard.

This left Administration with the dilemma that each application to install synthetic turf on a verge needed to be assessed on its merits using criteria such as the extent to which other properties in the area have installed artificial turf on their verge, the type of material and base proposed (porous, non-porous, the likely appearance of the material, impact on existing/proposed vegetation (eg heat build-up, watering) and long term maintenance/renewal.

In the past 18 months, eleven applications have been received for authorisation to install synthetic turf on Council verges. Nine (9) applications have been refused on one or more grounds, and two (2) applications (including the application for 1 Richardson Avenue) have been approved.

It is within Council's remit to nominate synthetic turf as a non-approved verge treatment although in doing so, Council may be viewed as being out of step with some community expectation that modern synthetic turf is a viable alternative to more traditional natural grass or other verge landscaping treatments. On the other hand, Council may be regarded as progressive in recognizing potential environmental issues such as heat build-up, lack of water permeability through the turf and base course, potential impacts on adjacent vegetation, and long term disposal issues. It will ultimately depend on a resident's viewpoint.

Administration contacted the 18 metropolitan/peri-urban Councils to ascertain their position on use of synthetic turf on their verges. Only two (2) of the 18 councils (Marion and Norwood Payneham and St Peters) have current prohibitions on the use of synthetic turf as a verge treatment, although eight (8) other councils have limited use assessed on a case-by-case basis or intend to move to prohibit use of synthetic turf on verges. Six (6) councils have verge policies that allow installation of synthetic turf on verges. A summary of the 18 council's verge policy positions is presented in Attachment 6.

*Refer Attachment 4*

This report recommends that Council add synthetic grass to the prohibited list for verge treatments, but that the prohibition only apply to proposed new installations or to existing installations that have reached the end of their service life and are being considered for renewal/replacement.

#### **Existing Synthetic Turf Installation – 1 Richardson Ave**

During its meeting of 23 July 2019, Councillors were advised that an application under s221 of the Local Government Act had been received and approved under delegation in May 2019 for landscaping works on the verges outside 1 Richardson Avenue, Glenelg North. These approved works included the installation of new concrete (washed aggregate) footpaths, tree planting, gardens and installation of modern synthetic turf. Details of the s221 application for 1 Richardson Avenue are presented in Attachment 4.

*Refer Attachment 4*

Of most concern to Council was the proposed installation of synthetic turf, with a number of members referring to previous decisions of Council to ban the installation of synthetic turf throughout the Council area. This "ban" has been addressed in the previous section of this report and related to the removal of synthetic turf from the approved list, but did not go so far as to prohibit the use of synthetic turf. Applications to install synthetic on Council verges were considered on a case by case basis, as was the case of the application for synthetic grass to be installed on the verges of Margaret Street and Richardson Avenue, Glenelg North.

Administration undertook an assessment of the proposed landscaping taking account of:

1. Council's Verge Management Policy – refer Attachment 3;
2. Existing synthetic grass installations in the area;
3. The fit of the proposed landscaping within the local urban environment.

Approval was subsequently given per s221 by our Manager Field Services under delegation for all elements of the landscaping including the installation of modern synthetic turf. The s221 approval email is presented in Attachment 5.

*Refer Attachment 5*

The current installation at 1 Richardson Avenue covers two areas – a strip of verge which is unlikely to support grass and would otherwise likely be finished in crusher dust located predominantly in Margaret St, and a larger area at the intersection of Margaret and Richardson Avenue which is a highly visible location facing the Patawalonga frontage.

In discussions with the applicant, staff had asked that a reasonable sized area be left as a cut-out in the synthetic turf around proposed new plantings and that irrigation be installed. The applicant agreed to do both.

At its meeting on 23 July, a number of Councillors expressed a strong view that they did not want synthetic grass installed on these verges, but did not make any resolution to that effect. In the days following the Council meeting, it was clear that the installation of the synthetic turf was imminent. Administration emailed the owners of the property and put them on notice that the elected Council was likely to rescind the s221 approval previously granted in May 2019, and that they should not proceed to install the synthetic turf at this time. The owner responded by advising that they had received a valid approval, had ordered the synthetic turf and were proposing to install it and that should Council subsequently resolve to remove their approval they would commence legal action.

The synthetic turf has now been installed.

*Refer Attachment 7*

Administration has now sought legal advice from our lawyers HWL Ebsworth Lawyers which is presented in Attachment 7.

The advice notes that s225 applies in this circumstance. S225 provides Council with the power to cancel an authorisation or permit, but only where there is a breach of a condition of that authorization or permit.

Prior to doing so, Council must give the holder of the authorisation or permit a written notice of the proposed cancellation stating the grounds on which the Council proposes to act and allowing the holder a reasonable period to make written representations to the Council on the proposed cancellation. Council must then consider any representations made in response to the notice. A period of at least one month must be given unless the Council determines that a shorter period should apply to protect the health or safety of the public, or otherwise to protect the public interest.

It is our lawyers view, based on the information provided, that there is currently no breach of a condition and therefore Council is unable to proceed under s225 to issue a cancellation notice.

Discussion with our lawyers further examined conditions that might apply to the s221 authorisation. Council can in part rely on the terms and conditions attached to the s221 authorisation and application form. The most relevant conditions which might trigger a breach included:

- That you understand that all of the ongoing maintenance is your responsibility and that Council can modify/ remove at any time (*within s221 authorisation*);
- When street trees are present, the contractor shall at all times ensure that any damage to the tree and root system is minimised and seek Council advice prior to undertaking excavation works around any street trees (*condition 2 of the s221 application form*);
- Should the property owner fail to maintain the authorized works or should the street trees and plantings be damaged by the artificial turf, then there **may** be grounds for cancellation of the s221 authorisation, but it would depend on the extent and circumstances at the time.

At this point in time, it is our lawyers view that Council does not have grounds to cancel the s221 authorisation issued in May 2019.

## **BUDGET**

There is no immediate impact on the budget, however a future liability may arise if Council rescinds its current approval without reasonable grounds.

## **LIFE CYCLE COSTS**

Under the s221 approval, the ongoing maintenance of the synthetic turf and approved landscaping is borne by the current landowners of 1 Richardson Avenue, Glenelg North.



# Attachment 1





# Attachment 2





**Extract from Minutes: Council Meeting held on 26 May 2015.**

**14.7 Verge Management Policy (Report No: 173/15)**

Council is requested to consider the adoption of the Verge Management Policy. The Verge Management Policy was subject to a public consultation process as requested by Council at the Council meeting of 20 January 2015.

The consultation period extending from 16 February 2015 to 8 March 2015.

This new policy has been created to provide advice and guidance on the process and opportunities residents should note when improving and maintaining the Council Street Verges adjacent to their property.

**Motion**

**C260515/115**

**That Council endorse the Verge Management Policy as at 14 April 2015 with the following amendments:**

- **That Clause 2.4(b) to not include flower stems, native grass stems or annual plantings**
- **To remove all references to synthetic grass from the policy – not retrospective**

Moved Councillor Lonie, Seconded Councillor Donaldson

**Carried**

**Division called**

A division was called:

Those voting for: Councillors Bouchee, Wilson, Donaldson, Snewin, Clancy, Lonie, Bradshaw and Yates (8)

Those voting against: Councillors Aust, Charlick, Patton and Smedley (4).

His Worship the Mayor declared the motion

**Carried**

# Attachment 3



|                          |                               |
|--------------------------|-------------------------------|
| Classification:          | Statutory Policy.             |
| Trim Container           | B4841                         |
| Trim Document Number:    | DOC/15/7292                   |
| First Issued / Approved: | May 2015                      |
| Last Reviewed:           | Not Applicable                |
| Next Review:             | May 2020                      |
| Responsible Officer:     | General Manager – City Assets |
| Date Placed on Web:      | <b>June 2015</b>              |

## **1. PREAMBLE**

The Street Verge Policy provides a framework for verge management within the City of Holdfast Bay.

### **1.1 Background**

Street Verges make an important contribution to the aesthetic nature of the City of Holdfast Bay. A Street Verge can provide amenity value and add character whilst providing a range of environmental, social and economic benefits.

### **1.2 Purpose**

The City of Holdfast Bay recognises that the appearance of a verge is important to property owners/ occupiers because of the significant aesthetic impact on their dwellings.

This policy provides advice and guidance on the constraints and opportunities residents should take note of when improving and maintaining the City's Street Verges.

### **1.3 Scope**

This policy applies to the City of Holdfast Bay Street Verges. A separate policy for Street Trees is outlined in the City of Holdfast Bay Tree Management Policy.

### **1.4 Definitions**

The term verge represents the portion of land which lies between a road and adjacent property line, but does not include the footpath.

### 1.5 *Strategic Reference*

#### 1.5.1 Our Place Plan 2012-2015

##### a. A Place that Values its Natural Environment.

“Promote and Implement programs that enhance the greening of the City”

##### b. A Place with a Quality Lifestyle

“Provide high quality attractive and well serviced open spaces, reserves and streetscapes”

## 2. POLICY STATEMENT

### 2.1 *Development*

- a) Under Section 221 of the *Local Government Act 1999*, property owners must receive authorisation from Council to make an alteration to a road (which includes the verge).
- b) Applicants are required to complete a Verge Application Form. No development can start until confirmation from Council has been received.
- c) Only property owners can submit a Verge Application Form.
- d) Applicants may develop the verge provided the following is adhered to:
  - i) There is pedestrian access along the verge area regardless of whether a footpath has been constructed or not. Footpaths, if constructed, are at a minimum width of 1.2 metres for concrete and 1.5 metres for paving.
  - ii) There is no interference to traffic sight lines.
  - iii) The existing ground level is maintained.
  - iv) There is access for Council and Service Authorities for installation of new services and maintaining existing.
  - v) Provision is made for a Street Tree(s) as per the City of Holdfast Bay Tree Management Policy. Council may plant Street Tree(s) at any time at their discretion.
  - vi) The property owner understands that the ongoing maintenance rests with them and that any development may be removed by Council at any time at the property owner's expense.
  - vii) If the development alters to what was originally proposed in the application, then Council need to be notified.
- e) The applicant is responsible for all works associated with the development, including the replacement of existing verge material with the appropriate specified items for the development and the disposal of any excess material. The Council will not contribute to the cost of the works.
- f) The applicant is responsible for locating any underground services prior to commencement of works. Any costs incurred in repairing damage to services are charged to the person responsible for the damage.

### 2.2 *Service Authorities and Council Assets*

- a) Service Authorities have access rights over services contained within a verge.  
The verge area may be occupied (above or below ground) by the following:
  - i) Electricity – wiring, pits and poles
  - ii) Telecommunications wiring, pits and poles
  - iii) Gas mains
  - iv) Water mains and connections
  - v) Sewer mains and connections
  - vi) Survey marks.
- b) When any developed verge is altered or removed by a Service Authority, reinstatement will be a negotiation between the property owner and that Service Authority.
- c) The Council have access rights to the verge for items such as:
  - i) Stormwater drainage systems
  - ii) Footpath
  - iii) Street furniture
  - iv) Signage
  - v) Bus shelters
  - vi) Street trees
  - vii) Vegetation
- d) When any developed verge is altered or removed by Council, it will be restored to a reasonable standard.

### 2.3 *Verge Treatments*

- a) The following verge treatments are permitted:
  - i) Mulch
  - ii) Compacted Dolomite Sand
  - iii) Low plants (maximum 500mm height) - Refer to “Planting/ Landscaping” within this policy
  - iv) Permeable paving
  - v) Lawn – Refer to “Lawn”
- b) The following items are not permitted:
  - i) Items that may obstruct pedestrian movement
  - ii) Raised edges
  - iii) Plants that cannot be maintained to a maximum height of 500mm
  - iv) Plants with spines or thorns
  - v) Plants that are declared as pest plants
  - vi) Concrete
  - vii) Non-permeable paving
  - viii) Fences
  - ix) Letter boxes



### 2.4 ***Planting/ Landscaping***

- a) If no street trees are present, provision must be made for the future planting of trees to all property frontages on streets identified in the City of Holdfast Bay Planting Guide as per the City of Holdfast Bay Tree Management Policy.
- b) Planting is to be maintained to a maximum height of 500mm, with the exception of Council Street Trees. No vegetation is to encroach onto the pedestrian thoroughfare.
- c) The City of Holdfast Bay encourages plantings that are drought tolerant and suited to hot, dry summers and with an emphasis on suitable indigenous species.
- d) No planting of anything that may cause an obvious hazard to road users or pedestrians, such as thorny roses, prickly cacti or plants, or toxic species.
- e) Plants listed as noxious or environmental weeds must not be used pursuant to *Natural Resources Management Act 2004*.
- f) Any planted areas are to be kept neat and tidy and free of weeds.
- g) When planting or landscaping the verge area, it is advised that residents should leave a space for waste bins.

### 2.5 ***Lawn***

- a) The height of lawn shall not be allowed to exceed 100mm and must not be allowed to grow over the kerb or existing footpath.
- b) The City of Holdfast Bay encourages the use of drought tolerant lawn such as kikuyu, couch and buffalo.
- c) Mowing of lawn is the resident's responsibility and not a service that is provided by Council.
- d) When residents are maintaining lawn on their verge it is important not to ring bark Council street trees by the nylon cord of whipper snippers and the like. To manage grass growing at the collar of the Council street tree, removing the grass by hand or simply spraying roundup to reduce growth is the preferred option.
- e) Property Owners with existing lawn and who do not wish to maintain the area can request Council to slash and poison and to be placed on a weed spraying program (offered a few times a year).

### 2.6 ***Irrigation***

- a) Applicants may install below-ground irrigation systems (pop up sprinklers, below ground drippers and the like) provided the ongoing maintenance and repairs is carried out by the property owner.
- b) Irrigation systems must be below-ground so they do not cause a trip hazard for pedestrians.

### **2.7 Footpaths**

- a) Any development of a verge without an existing concrete or paved footpath must allow for the possible future construction of a footpath by Council.
- b) Residents are not allowed to develop a footpath or alter an existing footpath in conjunction with developing the verge.
- c) Any damage to footpath caused by the verge development will need to be repaired in accordance to Council standards at property owner's expense.

### **2.8 Removal or Modification of an Existing Development**

- a) Council recognises that verges within the City of Holdfast Bay have been developed before the adoption of this policy. Existing developments do not require the Verge Application Form to be completed; however the verge must comply with the guidelines listed within this policy.
- b) If Council find that the existing verge development could cause or is causing a hazard, obstruction or does not comply with the specifications listed in this policy, then Council will require the development be removed or modified to meet the guidelines contained within this policy. Any such modification or removal will be at the expense of the property owner except where Council deems otherwise.
- c) If the condition of the verge is to be altered in any way than the existing, a Verge Application Form must be completed.

### **2.9 Reinstatement**

- a) Any cost incurred by the Council in reinstating the verge as a result of the property owner not complying with this policy, will be charged to the property owner pursuant to Section 213 of the *Local Government Act 1999*.
- b) Residents who wish to have the verge area returned to a dolomite surface will be at cost to the property owner and must be carried out by an appropriately licensed private contractor to be organised by the resident.

### 3. REFERENCES

#### 3.1 *Legislation*

- a) *Local Government Act 1999*
- b) *Natural Resources Management Act 2004*

#### 3.2 *Other References*

- a) City of Holdfast Bay Street Tree Strategy and Planting Guide
- b) Tree Management Policy
- c) City of Holdfast Bay Strategic Plan

# Attachment 4



| Council                   | Synthetic Grass Permitted     | Conditions/ Notes  | Link to Policy/ Guidelines   |
|---------------------------|-------------------------------|--|--|
| Adelaide City Council     | No/Partial                    | <p>Not visible on Website or conditions. Had to call them to gain clarification.</p> <p>Informal ban. If residents apply through the correct channel (website form), then the application is denied. If the resident has installed it without approval then the Council do not request an application retrospectively and the treatment remains.</p> | <a href="#">Gardens (section on Website – Nature Strips)</a>                         |
| Campbelltown City Council | Partial                       | <p>Residents may be authorised, subject to Council's satisfaction and conditions, to install artificial turf on the verge area at their cost and they are responsible for all ongoing repairs and maintenance. However, artificial grass is not Council's preference for installation due to its environmental impact and the heat it generates.</p> | <a href="#">Road Verge Development and Maintenance Policy</a>                        |
| City of Burnside          | No/Partial                    | <p>Not visible on Website or conditions. Had to call them to gain clarification.</p> <p>Residents have to apply, however most are rejected.</p>  | <a href="#">Conditions Applicable to Verge/ Road Reserve Landscaping or Planting</a> |
| City of Charles Sturt     | Yes (but not for much longer) | <p>Currently reviewing the guidelines. They allow synthetic turf at the moment, but moving forward this will no longer be allowed in the Charles Sturt Council.</p> <p>The guidelines currently say:<br/>Subject to further assessment and consideration of trees and other vegetation existing in the verge area.</p>                               | <a href="#">Verge Development Guidelines for Work on Council Property</a>            |

|  |         |   |  |
|--|---------|---|--|
| City of Holdfast Bay                   | Partial | <p>It is not an approved surface within the Policy but not listed as a non-approved surface. Remains silent at this current time.</p> <p>Assess on a case by case basis.</p> <p>Currently reviewing this and Council will decide at next meeting.</p>   | <a href="#">Verge Management Policy</a>                      |
| City of Marion                         | No      | Artificial Turf is not permitted  | <a href="#">Verge Development Guidelines</a>                 |
| City of Mitcham                        | Yes     | <p>A design needs to be submitted with the application form showing the area of artificial turf and no changes in level should occur that could cause a trip point on the verge area. Artificial turf is not be installed within 300mm of street trees.</p> <p>The artificial turf should be pervious to water to ensure adequate moisture levels below the turf for the purpose of watering the street trees through natural rainfall.</p> | <a href="#">Works a Public Road – Fact Sheet</a>             |
| City of Norwood Payneham and St Peters | No      | Not visible on Guidelines. Had to call them to gain clarification.  | <a href="#">Verge Garden Guidelines</a>                      |
| City of Onkaparinga                    | Unknown | <p>Not visible on Website or conditions. Had to call them to gain clarification.</p> <p>Unfortunately no one at the Council could give me a straight answer. Residents are not required to fill out a form when they are upgrading/ changing the verge so it was not something that had been asked of the people I spoke to.</p>  | <a href="#">Road Verge Landscaping Guidelines</a>            |
| City of Playford                       | Partial | Artificial grass will not be permitted if a street tree is present or if a tree is planned to be planted.   | <a href="#">Verge Landscaping and Maintenance Guidelines</a> |
| City of Port Adelaide Enfield          | Partial | Shall be considered for approval depending on the specific site conditions and relevance to the streetscape.  | <a href="#">Verge Development Guidelines</a>                 |

|                        |                               |  |   |
|------------------------|-------------------------------|--|---|
| City of Prospect       | ??                            | <p>Not visible on Website or conditions. Had to call them to gain clarification.</p> <p><b>** No info available at time of publication **</b></p>  | <a href="#">City Works Guide and Application Form</a> |
| City of Salisbury      | Yes                           | To manufacturer's specifications and Council approval.   | <a href="#">Verge Development Guidelines</a>          |
| City of Tea Tree Gully | Yes (but will change shortly) | <p>Not visible on Website/ application form. Had to call them to gain clarification.</p> <p>Currently updating their Policy to say that it is no longer able to be installed.</p>  | <a href="#">Landscape a verge on a Council road</a>   |
| City of Unley          | Partial                       | <p>Not visible on Website/ guides. Had to call them to gain clarification.</p> <p>Unley Council discourage it, but it isn't banned. They state that they are overdue to review thier Nature Strip Policy and are keen to recommend not permitting it.</p> <p>Aside from the heat, permeability, landfill etc, it can cause conflict issues with residents when they have to do any work on the verge / replace a tree etc and we don't reinstate it/fix or patch any cuts etc.</p> | <a href="#">Unley Verges Planting Guide</a>           |
| City of West Torrens   | Yes                           | <p>Not visible on Website or conditions. Had to call them to gain clarification.</p> <p>It is allowed and Council prepare the verge as per their policy, but the resident is responsible for laying it and the associated costs. Residents are also informed that they are responsible if it needs to be pulled up by utilities or contractors.</p>  | <a href="#">Urban Verge Management Policy</a>         |

|                     |         |  |  |
|---------------------|---------|--|--|
| Town of Walkerville | Yes     | <p>Where a property owner desires to install a synthetic/ artificial turf treatment to the verge, it is to be a product and in a manner that complies with the following conditions:</p> <ul style="list-style-type: none"> <li>a) A pile length of between 25mm-40mm with a sand or rubber particle infill, to ensure the pile remains upright</li> <li>b) To compromise of bicolour filaments/ tufts</li> <li>c) To be installed as per manufacturers' specifications, ensuring that any excavation does not damage Council infrastructure eg footpath, kerb and gutter or street trees</li> <li>d) The finished surface level and ground fixing method of the product is to be flush with adjacent levels, limiting potential trip hazards</li> <li>e) The base construction and chosen product must be permeable by water and where a street tree exists the finished surface is to grade towards the tree.</li> </ul> | <p><a href="#">Section 221 Road and Verge Application Form</a></p> <ul style="list-style-type: none"> <li>• Guidelines found in form.</li> </ul> |
| Town of Gawler      | Partial | <p>Not visible on Website or conditions. Had to call them to gain clarification.</p> <p>Residents need to submit an application and it is assessed on a case by case basis.</p>  | <p><a href="#">Landscaping Verge Areas Footways by Residents</a></p>   |



# Attachment 5



# Verge Application

City of Holdfast Bay  
TRIMMED  
18 APR 2019

Name of Property Owner: ADRIENNE COOPER hereby apply for permission to alter the Council verge area adjacent to the property I own:

|                            |                               |
|----------------------------|-------------------------------|
| Property Address:          | 1 RICHARDSON AVE GLENEGG NTH. |
| Applicant Mailing Address: | PO BOX 2017, GLENEGG, 5045    |
| Applicant Phone Number:    | 0421139 136.                  |

Intent of Works (detailed description of the proposed works, plant species and materials to be used):

- AS PER ATTACHED PICTURE PLUS PLEASE NOTE :-
- Remove existing turf to a depth of 150mm for artificial turf + 200mm for garden beds. Compact 75mm rubble for turf + then
  - spread + screened 20mm quarry sand for turf. Turf supplied by Royal Grass + product called 36mm Deluxe.
  - Spread organic loam for garden beds + instal plants as attached.
  - Install 19mm poly pipe underground for irrigation.
  - Install 4lt. p/h pressure compensated drippers for each plant. Irrigation controlled by Hunter solenoid + Rainbird controller installed inside the property at 1 Richardson Ave, Glenelg North.
  - Spread Jeffries Recover to mulch all garden beds.
  - Business Name is Fresh Outdoor Design.
- SEE ATTACHED

Labelled plan of the proposed works:  
(dolomite and lawn does not require a labelled plan)



# Verge Application

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## Verge Application Terms and Conditions

The applicant agrees to the following:

1. To provide a plan illustrating the proposed works.
2. To ensure that the proposed does not cause interference to or cause loss of view to:
  - a. Pedestrians
  - b. Motorists entering streets from private property or adjoining streets and intersections.
3. Parked vehicles must have access to be able to open passenger side doors.
4. If the condition of the verge is altered in any other way than what is outlined on this form, Council need to be notified.
5. Applicants are fully responsible for the maintenance of the verge (with the exception of Street Trees) as outlined in the Council's Verge Management Policy. In the event the verge is not maintained to the satisfaction of the Council, the applicant will pay all costs associated with the verge removal.
6. Applicants understand that Council may plant Street Tree(s) at any time at their discretion.
7. Council is not responsible for any bodily injury and/ or damage to property arising from the proposed works or maintenance of the verge.

I have read and agree to the terms and conditions, to which all works proposed will comply with the City of Holdfast Bay Policy and will commence following notification from Council.

Signature of Property Owner/s: 

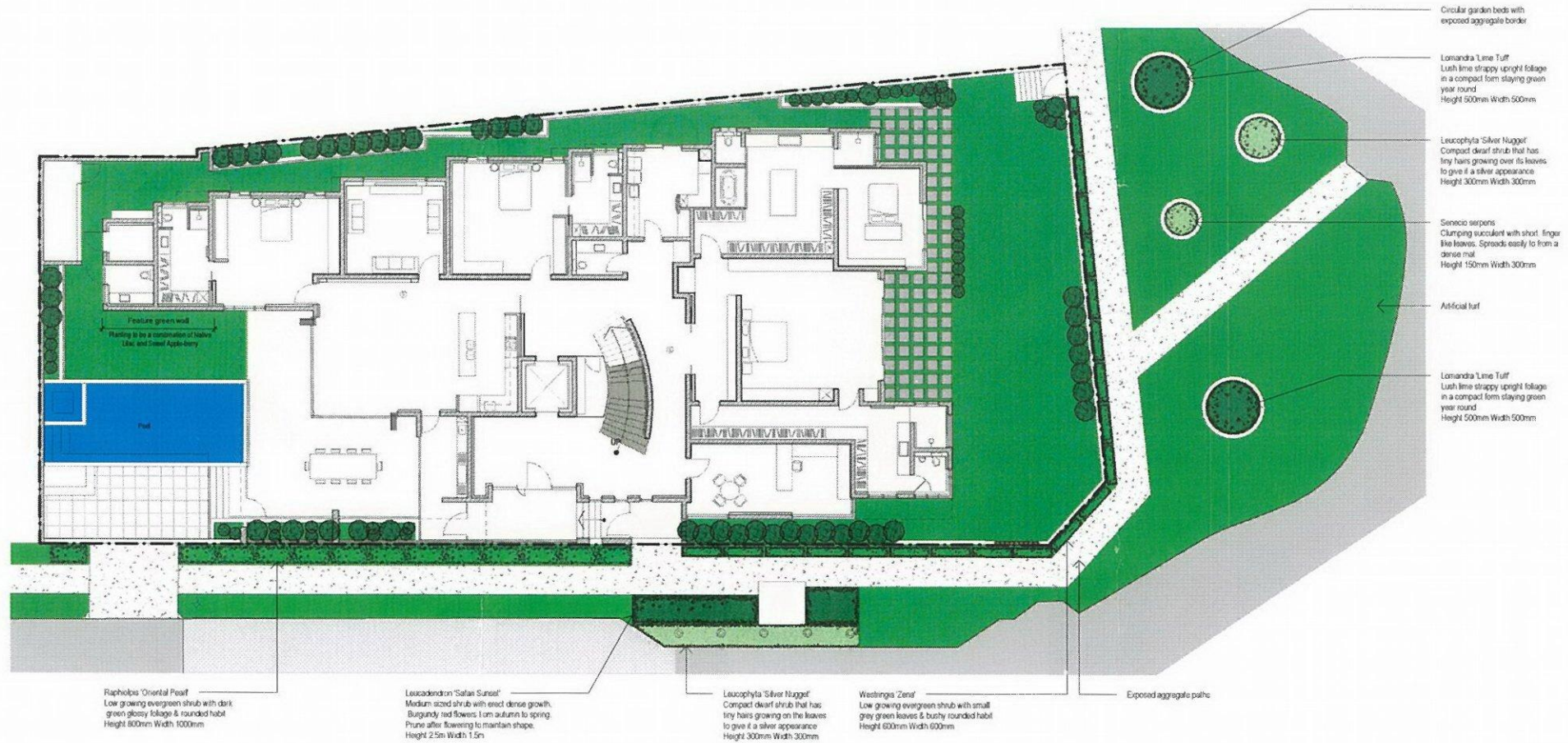
Date: 15-04-2019

Return completed application to:

**Mail to:**  
City of Holdfast Bay  
PO Box 19  
Brighton SA 5048

**Email to:**  
[mail@holdfast.sa.gov.au](mailto:mail@holdfast.sa.gov.au)





### Verge Planting Schedule



Westringia 'Zena'



Leucophyta 'Silver Nugget'



Raphiolepis 'Oriental Pearl'



Leucadendron 'Safari Sunset'



Lomandra 'Lime Tuff'



Senecio serpens

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PROFESSIONAL LANDSCAPE ARCHITECTURAL DESIGN

concept designs

g 0800 726264

email: info@conceptdesigns.com.au

Tenancy 2/14, Building 2 Level 1  
Palace Corporate Park 531, Mount Highway, Adelaide

Proposed 5 Bedroom Residence, Lot 131  
Richardson Avenue, Glenelg North, Adelaide

Landscape

| PROJECT NO. | SCALE | DATE     | PROJECT NAME | DRAWN | CHECKED | ISS. |
|-------------|-------|----------|--------------|-------|---------|------|
| A185        | 1:100 | 11/03/19 | 18007200     | NA    |         | A1   |

# Attachment 6



**Copy of email: s221 Approval for Installation of Synthetic Turf, Planting & Irrigation  
on Verges outside 1 Richardson Ave Glenelg North**

**From:** Depot Inbox [<mailto:depotservices@holdfast.sa.gov.au>]  
**Sent:** Friday, 3 May 2019 12:29 PM  
**To:** [jcooper@nuritraders.com.au](mailto:jcooper@nuritraders.com.au)  
**Cc:** 'McMillan Concrete Admin' <[admin@mcmillanconcrete.com.au](mailto:admin@mcmillanconcrete.com.au)>  
**Subject:** Verge Application - 1 Richardson Avenue, Glenelg North

Dear Mr and Mrs Cooper

Thank you for your Verge Application for 1 Richardson Avenue, Glenelg North. I am pleased to advise that your Verge Application has been accepted for the installation of synthetic turf, planting and irrigation. Please read the following information carefully as there are a lot of details therein.

It is important to note that this Verge Application acceptance does not include the modification to the Council footpath. As previously advised an additional form will need to be provided to Council which I have attached to this email. I note that McMillan Concrete has been in touch with Council and this information has also been provided to them.

As previously advised synthetic turf is not an approved treatment within the Verge Management Policy, however Council assess on a case by case basis. Council will allow you to install this product, however you need to adhere and understand the following:

- The existing ground level is maintained.
- During the installation there is no damage to existing council infrastructure.
- That you understand that all of the ongoing maintenance is your responsibility and that Council can modify/ remove at any time.
- At any time Council may plant a street tree of their choice within the Verge area.

As per the Verge Management Policy the plants need to be maintained to a maximum height of 500mm and no vegetation is to encroach onto the pedestrian thoroughfare. If planting deviates from the landscape plan, no plants can be chosen that are hazardous to road users or pedestrians such as prickly cacti and plants and no vegetation is to encroach the pedestrian thoroughfare or roadway. In relation to the irrigation, the system must not cause a trip hazard for pedestrians and the responsibility of ongoing maintenance and repairs is your responsibility.

In accordance with the Development Approval of your build, the disused crossovers will need to be reinstated to kerb water table at your expense. It is noted that synthetic turf and a small garden bed is proposed where the crossover currently is on Patawalonga Frontage and Margaret Avenue and therefore likely in your plans to reinstate the kerb water table.

Whilst Council can approve your Verge Application, you will need to get approval for anything around the Electricity Distribution Box on Margaret Avenue from SA Power Networks. There will be certain clearances that will need to be maintained around the box and your landscaping may not comply. Council will not accept any responsibility if plants are removed by SAPN to gain sufficient access to the box or they see it as a safety concern. As per previous telephone conversations with you, if you wish to have the box painted, that also will need to be discussed with SA Power Networks and not Council. In relation to the bollards they may need to remain. The following website link

may assist you in researching your options

- <https://www.sapowernetworks.com.au/public/download.jsp?id=9510>.

I trust this information is of assistance and the City of Holdfast Bay appreciates that that you want to beautify the Council verge and to add value to the existing streetscape.



**ROSS WHITFIELD**

Manager Field Services

City of Holdfast Bay

**P** 08 8229 9999

[www.holdfast.sa.gov.au](http://www.holdfast.sa.gov.au)

**From:** Emma Herriman [mailto:eherriman@hwle.com.au]  
**Sent:** Wednesday, 7 August 2019 7:20 AM  
**To:** Howard Lacy <HLacy@holdfast.sa.gov.au>  
**Cc:** Kate Brandon <kbrandon@hwle.com.au>  
**Subject:** RE: 1 Richardson Avenue - s221 authorisation [HWLE-Matter.C0187428.945651]

Dear Howard,

Thank you for your detailed instructions of earlier today.

## **Facts**

1. The Council received a s221 application in relation to the verge outside of the above mentioned property. The application was made using the Council's standard s221 application form which lists a series of conditions associated with such applications.
2. On 3 May 2019, by way of an email from Ross Whitfield (assumedly as a Council delegate), the Council granted the applicant authorisation to undertake the works to the verge, under s221 (**s221 authorisation**). The s221 authorisation included the ability to install synthetic turf, planting and irrigation on the applicant's verge and listed a series of requirements associated with same.
3. On 23 July, the Council considered the applicant's further application for the approval of public art around an SAPN transformer and the landscaping proposal for the above address. (We have not seen any documentation associated with this meeting).
4. On 24 July, Ross wrote to the applicant confirming that, as expressed at the Council meeting the night before, the Councillors were not in support of the proposed synthetic turf on the verge; that the matter was likely to be considered at the next Council meeting; and that a motion be put forward to rescind the s221 authorisation granted on 3 May. Ross confirmed that preparations to install the turf should be postponed.
5. On 25 July, the applicant confirmed that on the basis of the Council's email of 3 May, it had laid 60 tonnes of aggregate (making real lawn impossible to lay) and rubble and synthetic turf had already been purchased for the works (at considerable cost).
6. On 30 July, Ross emailed the applicant confirming that the Council would consider the rescission of the s221 authorisation on 13 August.

## **Advice**

In the current circumstances, the threshold question for Council must be: *does the Council have the power to rescind the authorisation granted to the applicant under s221 of the Local Government Act 1999 (LGAct)*.

The answer under the LGAct is 'yes', but only in limited circumstances.

Under section 225(1)(b) of the LGAct:

***"A council may, by notice in writing to the holder of an authorisation or permit—***

***(a) .....***

***(b) in any other case—cancel the authorisation or permit for breach of a condition."***

So, only in circumstances in which an applicant has breached a condition of the s221 authorisation issued, can the Council cancel that authorisation. Before doing so, the Council must (under section 225(2) of the LGAct):



*(a) give the holder of the authorisation or permit a written notice of the proposed cancellation stating the grounds on which the council proposes to act and allowing the holder a reasonable period to make written representations to the council on the proposed cancellation; and  
(b) consider any representations made in response to the notice.*

The Council should also note that, pursuant to section 225(3):

*(3) The period allowed under subsection (2)(a) must be at least one month unless the council determines that a shorter period should apply to protect the health or safety of the public, or otherwise to protect the public interest.*

No other provision in the LGAct empowers the Council to rescind or cancel a s221 authorisation.

There is no condition attached to the s221 authorisation granted by the Council on 3 May 2019 that enables the Council to rescind or cancel it under any circumstances.

There is no South Australian case law on the Council's power to rescind a s221 authorisation, under the LGAct or otherwise.

At this stage, on the information provided, the Council does not have the power to rescind or cancel the s221 authorisation granted to the applicant.

### **Recommendations for future**

In light of (a) the Council's clear lack of support for the use of synthetic turf on its verges and (b) the operation of Chapter 11, Part 2 of the LGAct (which includes the provisions noted above), I would recommend that the Council consider the following going forward:

1. Amending its *Verge Management Policy* such that synthetic turf is "not permitted" on "Verge Treatments".
2. Reviewing the content of its s221 authorisation application forms (including the standard conditions listed).
3. Alongside (2), creating a pro forma s221 authorisation document which includes all the conditions that the Council would wish to see on such authorisations granted (including those that limit what is authorised and the time period for which it is authorised).

Please don't hesitate to give me a call if you would like to discuss further, Howard.

Kind regards,

Emma

**Emma Herriman**  
Partner



Level 21 Westpac House 91 King William Street | Adelaide SA 5000  
Phone +61 8 8205 0841 | Mobile 0412 511 904  
Fax 1300 464 135 (Australia) | Fax +61 3 9101 7985 (International)  
[eherriman@hwle.com.au](mailto:eherriman@hwle.com.au) | [www.hwlebsworth.com.au](http://www.hwlebsworth.com.au)

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