

**0.0 DRAFT Verge Maintenance Policy**

Date of Report:	2 May 2023
File Reference:	COC14
Author:	M Rebane – Executive Assistant
Responsible Officer:	H de Vos – Manager Development and Regulation
Attachments:	1. CURRENT Verge Maintenance Policy; and 2. DRAFT Verge Maintenance Policy, as amended.

**PURPOSE**

To consider the updated Verge Maintenance Policy (Attachment 1) and make a recommendation to Council.

**BACKGROUND**

Council resolved to implement a review of all Shire policies at an Ordinary Council Meeting held in February 2022.

In November 2021 Council adopted the Corporate Documents policy, an action arising from the Governance Review action plan. At a minimum, policies have been amended to reflect the newly adopted policy format.

**COMMENTS AND DETAILS**

A reformatted version of the Verge Maintenance Policy has been attached. The document is track changed so that the members can see the changes that have been made. The current policy is also attached for reference.

**OFFICER'S RECOMMENDATION 1**

That the Environment Advisory Committee recommends to Council the following:

That Council adopts the DRAFT Verge Maintenance Policy, as amended (Attachment 1).



## Verge Maintenance Policy

### Introduction

As under Section 55(1) of the *Land Administration Act 1997*, the land comprising a road is the absolute property of the Crown and, subject to the *Main Roads Act 1930* and the *Public Works Act 1902*, the local government within the district of which a road is situated has the care, control and management of the road. This care, control and management includes not only the road, drainage, footpaths and supporting infrastructure but also the naturally occurring vegetation contained within.

The verge area is generally considered to be the area within the road reserve between the edge of the road infrastructure and adjacent private property.

This policy is intended to outline Councils expectations, responsibilities and the extent to which verge maintenance services will be provided by the Shire in the overall management of the road reserve and verges within the Shire of Toodyay.

### Application

The Shire recognises that the appearance of street verges is important to owners / occupiers, due to the aesthetic impact on their properties and dwellings.

The following policy is provided to maintain safety to the community whilst enabling owners / occupiers to improve the aesthetics and amenity of street verges adjacent to their properties.

### Policy Intent

- To value the verge as an important component of the streetscape;
- To encourage ownership by owners/occupiers to improve and maintain verge presentation;
- Define the extent of general verge maintenance activities undertaken by the Shire;
- Reduce the impact of unwanted plants on agriculture, conservation and landscape values in the Shire;
- Ensure Council meets its legal responsibilities under the Local Government Act 1995 (WA) and to control unwanted plants within the Shire under the Agricultural and Related Resources Protection Act 1976

### 1. General Maintenance

- (a) Owners/occupiers are encouraged to maintain the verge area/s adjacent to their property.
- (b) Shire involvement is limited to 'significant hazards', obstructions to road users or Shire infrastructure and/or private works requests (i.e. paid for by the requesting party).
- (c) The Shire will maintain verges adjacent to Shire owned property and important public places, as and when required.

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- (d) The Shire does conduct annual fire mitigation works both in reserves and road reserve areas (i.e. within the verge), however, these works are identified and conducting in areas deemed a strategic fire risk by the Shires Community Emergency Services Manager. Ad-hoc requests for fire mitigation in isolated areas will not be considered.
- (e) The Shire does not become involved in verge maintenance issues involving the presentation or perceived levels of neglect when an adjoining landholder does not maintain the adjoining verge.

## 2. Verge Trees

Verge trees can be classified into three main categories with the following responsibilities:

### 1. Approved street trees/vegetation

These are trees planted in the road verge with the appropriate permit/approval from the Shire under the Shire of Toodyay Thoroughfares Local Law. Following establishment of the trees/vegetation, the Shire accepts responsibility for the ongoing maintenance of these trees.

### 2. Non-approved street trees/vegetation

These are trees planted in the road verge without the appropriate permit/approval from the Shire. The Shire will not maintain these trees/vegetation and may remove or order the removal of them.

### 3. Naturally occurring trees/vegetation

It is a common misconception that the Shire owns all naturally occurring verge trees. Naturally occurring trees are growing on Crown Land, the Shire simply manages the trees when and where necessary and does not take ownership of a particular tree or trees. Should a verge tree fall or be damaged as a result of a storm or high winds, and cause damage to a resident's infrastructure, the Shire cannot be held responsible for any damages as this is a naturally occurring event and part of living in the hills and a heavily treed environment.

As per general maintenance considerations, Shire involvement is limited to 'significant hazards' and/or obstructions to road users or Shire infrastructure.

#### *What constitutes a hazard?*

- *A dead or dying tree (or limbs) that is close to a crossover, road, footpath and/or infrastructure.*
- *A tree that is severely diseased and of poor structure.*
- *A tree that has become unstable at the base where root ball heave is present.*
- *A tree or limb/s that is causing sight line problems when exiting a driveway, gateway or an intersection.*
- *A tree that is deteriorating in health (photographic evidence to be captured)*
- *A tree with severe termite infestation.*
- *A limb/s that is cracked or damaged.*
- *A limb/s that is encroaching over infrastructure or the road with the potential for failure or injury or causing damage to a vehicle permitted to use the road.*

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What does not constitute a hazard?

- A tree simply shedding leaves, bark and fruits. This is a natural occurrence.
- The height of a particular tree.
- The proximity to infrastructure if the tree is in good health and structure.
- The species of a particular tree.
- A limb/s encroaching over a fence that has no impact on infrastructure.
- The size of a limb/s.
- A particular limb/s shedding leaves, bark and fruits, this is a natural occurrence.
- Limb/s encroaching into a paddock where no infrastructure is present.

Residents are entitled to prune limbs of a tree that is overhanging their fence line.

It is the resident's responsibility to ensure compliance with the local Fire Break Order, therefore Residents will be required to prune trees encroaching their firebreak, regardless of whose land the tree may be on.

The removal of any vegetation, whether it be in private property or the road reserve, needs to be undertaken in compliance with the *Environmental Protection Act 1986*, *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and the Shire of Toodyay Thoroughfares and Trading in Thoroughfares and Public Places Local Law.

### 3. Weed Control

The *Agriculture and Related Resources Protection Act 1976* places an obligation on all landholders to control 'Declared Plants' on their properties. A list of Declared Plants can be obtained from the Department of Primary Industries and Regional Development.

The *Shire of Toodyay Pest Plant Local Law 1979* places an additional requirement on Shire of Toodyay landholders to control further pest plants identified in the First Schedule of this Local Law.

In addition to the Shires obligations to also control the above Declared Plants and Pest Plants on Shire managed land, the Shire will conduct annual roadsideverge management activities addressing weeds and vegetation within the road shoulder, drains and batters (generally covering 3-5m from the trafficable edge or the road).

### 4. High Conservation Roadsides

The Shire is committed to identifying and preserving high conservation roadsides and shire managed reserves for the protection of flora and fauna.

This should be assisted by identifying and implementing verge management activities that preserve, support and enhance the conversation value of the high conservation roadsides.

Revegetation on high conservation roadsides must be undertaken with local provenance species.

The Shire promotes its verge management activities on a regular basis, through local public notice as per Council Policy.

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Verge Management Activities undertaken on high conservation roadsides and shire managed reserves for the protection of flora and fauna require approval by the Chief Executive Officer under delegated authority.

**Reference Information**

**Related Documents** Shire of Toodyay Thoroughfares Local Law  
 Shire of Toodyay Pest Plant Local Laws 1979  
 Refer to the Roadside Conservation Value Schedule

**Related Legislation** Local Government Act 1995 (WA)  
 Agricultural and Related Resources Protection Act 1976  
 Pest Plants Local Law 1986  
 Environmental Protection Act 1986  
 Environmental Protection (Clearing of Native Vegetation) Regulations 2004

**Associated Forms and Attachments**

Version Control Information	Version No.	Issue Date	Nature of amendment	Developed By	Approved By
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**Document Control Information**

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## Verge Maintenance

### Introduction

As under Section 55(1) of the *Land Administration Act 1997*, the land comprising a road is the absolute property of the Crown and, subject to the *Main Roads Act 1930* and the *Public Works Act 1902*, the local government within the district of which a road is situated has the care, control and management of the road. This care, control and management includes not only the road, drainage, footpaths and supporting infrastructure but also the naturally occurring vegetation contained within.

### Objective

- To value the verge as an important component of the streetscape;
- To encourage ownership by owners/occupiers to improve and maintain verge presentation;
- Define the extent of general verge maintenance activities undertaken by the Shire;
- Reduce the impact of unwanted plants on agriculture, conservation and landscape values in the Shire;
- Ensure Council meets its legal responsibilities under the *Local Government Act 1995* (WA) and to control unwanted plants within the Shire under the *Agricultural and Related Resources Protection Act 1976*

**Deleted:** The verge area is generally considered to be the area within the road reserve between the edge of the road infrastructure and adjacent private property.¶

### Scope

The Shire recognises that the appearance of street verges is important to owners / occupiers, due to the aesthetic impact on their properties and dwellings.

The following policy is provided to maintain safety to the community whilst enabling owners / occupiers to improve the aesthetics and amenity of street verges adjacent to their properties.

### Definitions

Term	Definition
Act	<i>Local Government Act 1995</i> .
CEO	Chief Executive Officer
Council	The local government, responsible for making decisions in formal meetings held under the auspices of Part 5 of the <i>Local Government Act 1995</i> and under the <i>Shire's Standing Orders Local Law 2008</i> .
Regulations	Local Government (Administration) Regulations 1996.
Shire	the Shire of Toodyay.

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Page 1

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Term	Definition
Verge area	the area within the road reserve between the edge of the road infrastructure and adjacent private property.
Verge Management Activities	Means activities undertaken on high conservation roadsides and shire managed reserves for the protection of flora and fauna require approval by the Chief Executive Officer under delegated authority.

**Policy Statement**

This policy is intended to outline Councils expectations, responsibilities and the extent to which verge maintenance services will be provided by the Shire in the overall management of the road reserve and verges within the Shire of Toodyay.

**1. General Maintenance**

- (a) Owners/occupiers are encouraged to maintain the verge area/s adjacent to their property.
- (b) Shire involvement is limited to 'significant hazards', obstructions to road users or Shire infrastructure and/or private works requests (i.e. paid for by the requesting party).
- (c) The Shire will maintain verges adjacent to Shire owned property and important public places, as and when required.
- (d) The Shire does conduct annual fire mitigation works both in reserves and road reserve areas (i.e. within the verge), however, these works are identified and conducting in areas deemed a strategic fire risk by the Shires Community Emergency Services Manager. Ad-hoc requests for fire mitigation in isolated areas will not be considered.
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Verge trees can be classified into three main categories with the following responsibilities:

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Page 2

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Page 3

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02/05/2022

Page 4

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**Associated documents**

Refer to the [Roadside Conservation Value Schedule](#),

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Page 5

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