

Flags and Banners Policy

Tuesday, 20 February 2024
City Finance and Governance
Committee

Strategic Alignment – Our Community

Program Contact:
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Public

Approving Officer:
Michael Sedgman - Acting Chief
Executive Officer

EXECUTIVE SUMMARY

At the meeting of Council on 24 October 2023, Administration committed to review the Council's Flags and Banners Policy and associated Flags and Banners Operating Guideline.

As part of this review, it is considered that Council should revoke the City of Adelaide Flags and Banners Policy (as adopted by Council on 13 May 2014) and adopt a revised Flags and Banners Policy (the draft Policy). The draft Policy aims to ensure future practice reflects current best practice regarding Governance Flag protocol and Promotional Flag and Banner provisions. The draft Policy adheres to protocols set by the State and Federal Governments and legislative requirements under the *Local Government Act 1999 (SA)*, the *City of Adelaide Act 1998 (SA)* and the *Planning, Development and Infrastructure Act 2016 (SA)*. The revised draft Policy enhances the accessibility and transparency of protocols, clarifies roles and responsibilities, guides decision-making and delegations, and strengthens alignment with Council's strategic objectives.

RECOMMENDATION

THAT THE CITY FINANCE AND GOVERNANCE COMMITTEE RECOMMENDS TO COUNCIL

THAT COUNCIL

1. Notes the report.
 2. Revokes the City of Adelaide Flags and Banners Policy adopted by Council on 13 May 2014.
 3. Adopts the Flags and Banners Policy as contained in Attachment A to Item 7.3 on the Agenda for the meeting of the City Finance and Governance Committee held on 20 February 2024.
 4. Authorises the Acting Chief Executive Officer or delegate to make minor editorial typographical or syntactical updates as required to finalise the Flags and Banners Policy as contained in Attachment A to Item 7.3 on the Agenda for the meeting of the City Finance and Governance Committee held on 20 February 2024.
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IMPLICATIONS AND FINANCIALS

City of Adelaide 2024-2028 Strategic Plan	Strategic Alignment - Our Community Celebrate and honour community and cultures.
Policy	<i>City of Adelaide Flags and Banners Policy</i> <i>Flags and Banners Operating Guidelines</i>
Consultation	Not as a result of this report
Resource	Not as a result of this report
Risk / Legal / Legislative	Not as a result of this report
Opportunities	Not as a result of this report
23/24 Budget Allocation	Not as a result of this report
Proposed 24/25 Budget Allocation	Not as a result of this report
Life of Project, Service, Initiative or (Expectancy of) Asset	Not as a result of this report
23/24 Budget Reconsideration (if applicable)	Not as a result of this report
Ongoing Costs (eg maintenance cost)	Not as a result of this report
Other Funding Sources	Not as a result of this report

DISCUSSION

Background

1. At the meeting of Council on 24 October 2023 the Chief Executive Officer made a commitment to review the process employed when the decision was made to lower the Australian Aboriginal Flag to half-mast as a sign of respect and mourning, at the conclusion of the referendum to establish an Aboriginal and Torres Strait Islander Voice within the *Commonwealth Constitution* and the civic protocols and practices that were referenced when making the decision.

Findings

2. Administration sought preliminary advice into the lawfulness of actions taken in the lowering of the Aboriginal Flag which concluded:
 - 2.1. Council could lawfully lower the Australian Aboriginal Flag to half-mast arising from the conclusion of the referendum to alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice.
 - 2.2. The lowering of flags to half-mast is permitted, by protocol, as a sign of mourning. In circumstances where the Council had expressed public support for the 'yes' campaign it was open to the Council to express sorrow, lamentation and grief at the outcome of the referendum in the context of the referendum representing a highly significant national and political event in Australia.
 - 2.3. The Council is not constrained to lowering its flags to half-mast only at the direction of the Commonwealth or State Governments.
 - 2.4. The Chief Executive Officer and the Lord Mayor as the Council's principal spokesperson possess sufficient authority under the *City of Adelaide Act 1998* (CoA Act) to make a decision of this nature, regardless of who, as a matter of fact, made the decision.
 - 2.5. Advice was taken by Council officers from the Department of Premier and Cabinet before a decision was taken and that advice did not preclude the course of action adopted.
 - 2.6. Commonwealth and State flag protocols and the Council's own internal guideline indicate that when the Australian National Flag is flown with other flags (including the Australian Aboriginal Flag), all flags in the set should be flown together at half-mast. In addition, Commonwealth protocols also dictate the Australian National Flag should be raised first and lowered last. A flag should not be flown at half-mast at night, whether or not it is illuminated, unless a direction to half-mast for an extended period has been issued.
3. The City of Adelaide Flags and Banners Policy was adopted by Council on 13 May 2014 [Link 1 view [here](#)].
4. The Flag and Banners Operating Guideline was developed in conjunction with the Civic Recognition Working Group and was implemented by administration on 29 June 2020.
5. In 2020, administration incorrectly considered that the Flags and Banners Policy had been rescinded and replaced with the Flag and Banners Operating Guideline [Link 2 view [here](#)].
6. As the Policy was a Council Policy, only Council had the authority to revoke the Policy, which was not done at that time.
7. It is important to note that the City of Adelaide Flags and Banners Policy (as adopted 13 May 2014) and the 2020 Flag and Banners Operating Guideline were not inconsistent.

Outcomes

8. It is important that Council has an endorsed policy in relation to flags and banners.
9. The proposed Governance Flags provisions in the Draft Flags and Banners Policy (as contained in **Attachment A**) seek to improve the current guidelines and aim to:
 - 9.1. defer in entirety to the Australian Government's *Australian Flags* publication and the South Australian Department of Premier and Cabinet Flag Flying Protocols;
 - 9.2. clarifies delegation of decision-making authority for the lowering of Governance Flags, in accordance with the relevant protocol, to the Chief Executive Officer in consultation with the Lord Mayor;
 - 9.3. clarifies the delegation of decision-making authority to respond to any other request regarding Governance Flags not addressed in the Draft Policy to the Chief Executive Officer.
10. In adopting the new Flags and Banners Policy, the City of Adelaide Flags and Banners Policy (as adopted 13 May 2014) must be revoked.

DATA AND SUPPORTING INFORMATION

Link 1 - Flags and Banner Policy (2014)

Link 2 - Flags and Banners Operating Guideline (2020)

ATTACHMENTS

Attachment A – Draft Flags and Banners Policy

- END OF REPORT -