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CITY OF BUSSELTON

MINUTES FOR THE POLICY AND LEGISLATION COMMITTEE MEETING HELD ON 24 JULY 2018

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MINUTES

MINUTES OF A MEETING OF THE POLICY AND LEGISLATION COMMITTEE HELD IN COMMITTEE ROOM, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 24 JULY 2018 AT 2.00PM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 2.00pm

2. ATTENDANCE

Presiding Member:

Cr Ross Paine

Members:

Cr Rob Bennett
Cr Kelly Hick
Cr Lyndon Miles
Cr Robert Reekie Deputy Member

Officers:

Mr Tony Nottle, Director, Finance and Corporate Services
Mr Oliver Darby, Director, Engineering and Works Services (entered the meeting at 2.03pm)
Ms Sarah Pierson, Manager, Governance and Corporate Services
Miss Kate Dudley, Administration Officer, Governance

Apologies

Cr Grant Henley

3. PUBLIC QUESTION TIME

Nil

4. DISCLOSURE OF INTERESTS

Nil

5. CONFIRMATION OF MINUTES

5.1 Minutes of the Policy and Legislation Committee Meeting held 26 June 2018

COMMITTEE DECISION

PL1807/197 Moved Councillor L Miles, seconded Councillor R Paine

That the Minutes of the Policy and Legislation Committee Meeting held 26 June 2018 be confirmed as a true and correct record.

CARRIED 5/0

6. REPORTS

6.1 RESCISSION OF COUNCIL POLICY 142 ROADSIDE ADVERTISING

SUBJECT INDEX:	Council Policies
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Governance and Corporate Services
REPORTING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Council Policy 142 - Roadside Advertising 

2:03 pm At this time the Director of Engineering and Works Services entered the meeting.

PRÉCIS

The purpose of this report is to recommend rescission of Council Policy 142 – Roadside Advertising (the Policy) (Attachment A). Under the Policy Council is to consider applications for roadside advertising by the calling of a public tender where interest has been shown, and/or Council believes the outcome has a net public benefit within aesthetic criteria.

The Policy was adopted in 2002 and does not appear to have been reviewed since. A review of the Policy has now been undertaken and it is recommended that it be rescinded, on the basis that it is no longer relevant or aligned to the City's current strategic direction.

BACKGROUND

The Policy was adopted in 2002 and sets out the process by which applications for roadside advertising (on bus shelters, street bins, and street seats in urban areas) are to be called and the 'tests' to be applied in considering whether such advertising is appropriate. These include functionality and location of the shelter, bin or seat, the cost / income implications, the aesthetics and quality, and compliance with 'adopted Council Townscape Guidelines'.

Prior even to the Policy being adopted, the City (then Shire) of Busselton, in 1995, entered into an agreement with Muscara Holdings Pty Ltd trading as Streetside Advertising (Streetside Advertising) for a period of five years for the placement of and advertisement on bench seats within the City. This agreement was extended beyond that term.

During 2012 the CEO requested that City staff review the use of roadside advertising, and accordingly also the services provided by Streetside Advertising. The review found that the benches provided were continually vandalised (mainly being the subject of graffiti), that the quality of the benches was low, and that they were generally out-dated and no longer suited to the landscaping and rejuvenation of the Busselton city centre.

Subsequently, in 2014 Council considered a (confidential) report in relation to the contract in place between the City and Streetside Advertising, and more broadly whether this type of advertising (on street seats) is desirable. Council resolved (C1403/057) as follows:

"That the Council does not continue with the existing contract with Streetside Advertising expiring on 30 June 2014".

Since that time the City has not entered into any other private contracts with respect to street seat advertising and does not currently have any private contracts in place for the provision of advertising on City bins or bus shelters, with the majority of City provided litter bins in Busselton and Dunsborough city / town centres displaying City images.

STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the Local Government Act 1995 it is the role of the Council to determine the local government's policies. The Council does this on the recommendation of a Committee it has established in accordance with Section 5.8 of that Act.

RELEVANT PLANS AND POLICIES

In August 2017 the CEO commissioned a high level independent review of the City's governance systems - the Governance Systems Review. Included in the scope of the review was the City's policy and procedure framework with the following recommendations made:

1. *There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. *Should deal with higher level objectives and strategies;*
 - b. *Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*
 - c. *Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*
2. *As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO.*
3. *Consideration should be given to developing a new Council Policy which sets out the 'framework' for Council Policies, OPPs and other procedures. The new Policy would explain the role to be played by each level of document. It could, for example, be called a Policy Framework Policy.*

In response a Policy Framework has been developed and endorsed by Council, setting out the intent of Council policies, as opposed to operational documents such as Staff Management Practices and operational procedures.

FINANCIAL IMPLICATIONS

The recommendation to rescind the policy has no financial implications.

Long-term Financial Plan Implications

The recommendation to rescind the policy has no long term financial plan implications.

STRATEGIC COMMUNITY OBJECTIVES

The Officers Recommendation will not impact adversely on the achievement of any of the community objectives contained within the Strategic Community Plan 2017 and will instead serve to meet the objectives of Key Goal Area 6, specifically:

- community objective 6.1 – ‘Governance systems, processes and practices are responsible, ethical and transparent’, by streamlining the City’s governance approach with respect to strategic planning; and
- community objective 6.4 – ‘Assets are well maintained and responsibly managed’, by ensuring that urban infrastructure is appropriate and able to be readily maintained to the City’s standards.

RISK ASSESSMENT

The City does not currently utilise roadside advertising as contemplated by the Policy. In the event, however that the City wanted in the future to enter into such an arrangement (despite the considerations outlined in the Officer Comment section of this report), the absence of a specific policy will not limit this. As such there are no identified risks of a medium or greater level associated with the Officers Recommendation.

CONSULTATION

No consultation was considered necessary in relation to this matter.

OFFICER COMMENT

The Policy is obviously very out-dated; it refers to guidelines under the Dunsborough and Busselton Town Centre Studies (2002), which are also out-dated and considered inconsistent with current strategic planning guidelines, and references a Townscape Advisory Committee that has ceased to exist. The policy requires for tenders to be called for roadside advertising, however under the current *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*, the contract value of this type of advertising is unlikely to require a tender.

Roadside advertising of the type contemplated by the Policy is normally based on a supplier providing free seats/benches and / or associated infrastructure (like litter bins and bus shelters) in exchange for the right to advertise on a limited number of these structures. The risk of profit or loss associated with the advertising normally lies with the supplier, with the local government earning a (relatively small) fixed fee for granting the right to advertise on a pre-determined number of structures. The supplier is also responsible for maintaining these structures (including removal of graffiti).

The major consideration or benefit for entering into this type of advertising agreement is the provision and maintenance of the structures by the supplier, at no cost to the local government. The number of structures to be provided by the supplier (and hence the financial advantage of such an agreement to Council) will depend on a range of factors, including the number and location of structures allowed, the design and quality of the furniture (for instance a preparedness to accept plain, robust furniture will generally result in more “free” non-advertising structures being supplied) and the term of the contract.

While design and standard of infrastructure should be negotiable under an agreement, overall the aesthetic value of this type of advertising is questionable and could detract from the City's town and landscapes. Importantly, the City, as part of its ongoing Busselton and Dunsborough foreshore redevelopment projects, has determined certain themes for street furniture in high profile areas like the Busselton and Dunsborough centres and foreshores, and in Port Geographe (that is specific designs, materials and standards for items like bench seats, litter bins and barbeques). It is unlikely that the City would have an unlimited choice/discretion in relation to design and materials, which could then result in the need to compromise on its strategic direction in this regard.

The City's ability to control advertising material and standards likely to be limited. Maintenance and response times (especially where the supplier is in Perth) is also likely to be an issue. Due to the nature and prominent location of street furniture, it is preferred for maintenance of street furniture to be under the direct control of the City (to ensure that damage caused by graffiti or other types of vandalism is repaired in the shortest possible time).

It is for all of the above reasons that the City does not currently have any arrangements in place for the provision of roadside advertising of the type contemplated by this Policy and why officers consider it appropriate to rescind, as opposed to update, the Policy.

CONCLUSION

It is recommended that the Policy be rescinded, as it is not considered to be relevant or aligned to the City's current strategic direction and objectives.

OPTIONS

Council could instead require that the Policy is reviewed and updated to reflect an alternate position and high level principles with respect to roadside advertising arrangements.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be rescinded immediately upon adoption of the Officers Recommendation.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

PL1807/198 Moved Councillor K Hick, seconded Councillor R Reekie

That the Council rescinds Council Policy 142 – Roadside Advertising.

CARRIED 5/0

6.2 RESCISSION OF COUNCIL POLICY 245 WORKSHOP ENVIRONMENTAL POLICY

SUBJECT INDEX:	Council Policies
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Governance and Corporate Services
REPORTING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Workshop Environmental Policy  Attachment B Environment Policy 

PRÉCIS

The purpose of this report is to recommend rescission of Council Policy 245 – Workshop Environmental Policy (the Policy) (Attachment A). The Policy outlines Council’s position with respect to reducing its environmental impact in all aspects of its work activities and specifically applies to the operation of the workshop at the City depot.

The Policy was originally created in 2009 as part of an initiative at the time to achieve Motor Trade Association of WA (MTA) Green Stamp Environmental Accreditation. In order to achieve level three of the accreditation, an Environmental Policy was required. In 2017 the City reviewed its membership of the MTA along with the Green Stamp accreditation and its benefits and decided not to retain either. This report, therefore recommends that the Policy be rescinded.

BACKGROUND

The Policy was originally created in 2009 as part of an initiative by the then mechanical workshop team to achieve Motor Trade Association of WA (MTA) Green Stamp Environmental Accreditation. The mechanical workshop had taken on the challenge to reduce its impact on the environment which involved reviewing its use of toxic chemicals and detergents and ensuring that materials are disposed of in the appropriate manner (recycling materials, correct disposal of oils at waste facilities and so on). In order to achieve level three of the accreditation (the final step), an Environmental Policy was required.

The Policy was reviewed in 2012, with officers recommending that it be retained (with minor changes to terminology only) to demonstrate the organisation’s commitment to best practice operating procedures for the motor trades industry. The relevant accreditation was also retained.

In 2017 the City reviewed its membership of the MTA, along with the Green Stamp accreditation and its benefits and decided not to retain either. While the work done to obtain the accreditation was worthwhile and remains in place as part of Fleet Service’s standard operating protocols and procedures, the accreditation itself was not felt to have any sufficient value to retain. While purported to have leadership benefits with respect to encouraging other local businesses to follow the City’s lead, there has been no significant visible manifestation of such purported leadership/benefit. This report therefore recommends that the Policy be rescinded.

The recommendation to rescind the Policy is also aligned to the recommendations of the Governance Services Review (GSR), a high level independent review of the City's governance systems undertaken by Mr John Woodhouse in August 2017 – November 2017. With respect to the City's policy and procedure framework the GSR recommended as follows:

1. *There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. *Should deal with higher level objectives and strategies;*
 - b. *Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*
 - c. *Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*
2. *As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO.*
3. *Consideration should be given to developing a new Council Policy which sets out the 'framework' for Council Policies, OPPs and other procedures. The new Policy would explain the role to be played by each level of document. It could, for example, be called a Policy Framework Policy.*

The Policy contains principles that are able to be embodied in operational practices and procedures.

STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the Local Government Act 1995 it is the role of the Council to determine the local government's policies. The Council does this on the recommendation of a Committee it has established in accordance with Section 5.8 of that Act.

RELEVANT PLANS AND POLICIES

The City has a broader environmental policy, Policy 030 - Environmental Policy (Attachment B), adopted in 2004 and last reviewed in 2016. This policy outlines Council's commitment towards continuous improvement in environmental management and to ensuring its decision making considers the impacts on the environment and identifies measures to adequately manage them. With respect to implementation of its objectives the policy refers to planning, designing, operating and conducting operations in a manner that minimises waste and the demand on natural resources and energy. Hence, it has relevance and sets out Council's commitment to the environment, even in the absence of the Policy.

FINANCIAL IMPLICATIONS

The recommendation to rescind the Policy has no financial implications, However the annual MTA membership and Green Stamp accreditation was costing the City \$890 per annum.

Long-term Financial Plan Implications

The recommendation to rescind the policy has no long term financial plan implications.

STRATEGIC COMMUNITY OBJECTIVES

The Officers Recommendation will not impact adversely on the achievement of any of the community objectives contained within the Strategic Community Plan 2017 and will instead serve to meet the objectives of Key Goal Area 6, specifically community objective 6.1 - Governance systems, processes and practices are responsible, ethical and transparent, by streamlining the City's governance approach with respect to strategic planning.

RISK ASSESSMENT

The City's current management of the workshop and existing operational practices and procedures align with the intent and principles of the Policy. Therefore, there are no identified risks of a medium or greater level associated with the Officers Recommendation

CONSULTATION

No consultation was considered necessary in relation to this matter.

OFFICER COMMENT

While maintaining the MTA Green Stamp accreditation had previously been a relatively simple process, the requirements changed in 2017, making the paperwork and overall process a lot more onerous. The MTA is a body created predominantly to improve the environmental processes and outcomes of mechanical workshops in the private sector, and also provide a point of difference for them from a marketing perspective. The City joined the organisation to demonstrate its commitment to good environmental practices and outcomes. The Policy was designed to reflect this and to facilitate achievement of the level three accreditation.

Regardless of accreditation, the Fleet Service's current standard operating practices and procedures continue to demonstrate a commitment to the environment, with a focus on using the most environmentally friendly, lowest toxic products available, and with established (and easy) access to proper waste disposal.

Further, the City's Environmental Policy continues to reflect Council's commitment to the environment and to the principles of planning, designing, operating and conducting operations in a manner that minimises waste and the demand on natural resources and energy.

CONCLUSION

It is recommended that the Policy be rescinded, as it is no longer directly relevant and the principles are covered sufficiently by Policy 030 and current operational practices and procedures.

OPTIONS

Council could instead require that the Policy is retained and / or further reviewed. For the reasons outlined in this report, that is not recommended.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be rescinded immediately upon adoption of the Officers Recommendation.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

PL1807/199 Moved Councillor K Hick, seconded Councillor R Bennett

That the Council rescinds Council Policy 245 – Workshop Environmental Policy.

CARRIED 5/0

6.3 RESCISSION OF COUNCIL POLICY 217/3 RESERVE MAINTENANCE STANDARDS

SUBJECT INDEX:	Council Policies
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Governance and Corporate Services
REPORTING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Council Policy 217/3 - Reserve Maintenance Standards



PRÉCIS

The purpose of this report is to recommend rescission of Council Policy 217/3 – Reserve Maintenance Standards (the Policy) (Attachment A). The Policy, which is very brief and out-dated, states that how parks maintenance standards will be set by Council according to the Passive and Active Reserve Maintenance Standards Schedules.

In August 2017 the CEO commissioned a high level independent review of the City's governance systems - the Governance Systems Review (GSR). Included in the scope of the review was the City's policy and procedure framework with recommendations made in relation to the nature and intent of Council policies, namely that there should be a review of Council policies and that Council policies should deal with higher level strategies and objectives, as opposed to operational matters.

In accordance with the recommendations of the GSR, and for the reasons outlined in the report, it is recommended that the Policy be rescinded.

BACKGROUND

It is not clear exactly when the Policy was first adopted. Documentation held in the City's record keeping system indicates it was in existence, and possibly created in 1999 with the referenced Passive and Active Maintenance Standards Schedule attached to the agenda of an Executive Committee meeting held on 17 February 1999. The Policy is clearly out-dated and requires review.

With respect to the City's policies generally, the GSR was undertaken over a 3 month period by Mr John Woodhouse LLB B.Juris and made the following recommendations with respect to the City's policy and procedure framework:

1. *There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. *Should deal with higher level objectives and strategies;*
 - b. *Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*
 - c. *Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*
2. *As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO.*

3. *Consideration should be given to developing a new Council Policy which sets out the 'framework' for Council Policies, OPPs and other procedures. The new Policy would explain the role to be played by each level of document. It could, for example, be called a Policy Framework Policy.*

In response a Policy Framework has been developed and endorsed by Council, setting out the intent of Council policies, as opposed to operational documents such as Staff Management Practices and operational procedures.

It is considered that this Policy in terms of its intent is now managed through other Council and operational processes and it is therefore recommended that the Policy be rescinded.

STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the Local Government Act 1995 it is the role of the Council to determine the local government's policies. The Council does this on the recommendation of a Committee it has established in accordance with Section 5.8 of that Act.

RELEVANT PLANS AND POLICIES

There are no plans or other policies directly relevant.

FINANCIAL IMPLICATIONS

The recommendation to rescind the policy has no financial implications.

Long-term Financial Plan Implications

The recommendation to rescind the policy has no long term financial plan implications.

STRATEGIC COMMUNITY OBJECTIVES

The Officers Recommendation will not impact adversely on the achievement of any of the community objectives contained within the Strategic Community Plan 2017 and will instead serve to meet the objectives of Key Goal Area 6, specifically community objective 6.1 - Governance systems, processes and practices are responsible, ethical and transparent, by streamlining the City's governance approach with respect to strategic planning.

RISK ASSESSMENT

The City undertakes asset management and maintenance planning on a regular basis with respect to all of its assets, including parks, with these processes providing for the maintenance of parks within budget allocations. Therefore there are no identified risks of a medium or greater level associated with the Officers Recommendation.

CONSULTATION

No consultation was considered necessary in relation to this matter.

OFFICER COMMENT

The Policy is out-dated and references a schedule that is no longer relevant. The intent of the Policy is also currently adequately managed through other Council and operational processes, namely asset management planning, long term financial planning and budgeting, and operational maintenance scheduling.

While the Policy was probably necessary at the time it was adopted, these planning processes, which are ongoing and continuously being refined, are well established at the City. This is particularly since the introduction of 'Integrated Planning' by the (then) Department of Local Government in 2011 and its focus on strategic and asset management planning. The Policy therefore is not considered necessary.

In the event that Council does want to retain a policy outlining their commitment or position with respect to the maintenance of parks and reserves, the Policy could be revised to provide a more relevant statement.

CONCLUSION

It is recommended that the Policy be rescinded, as it is sufficiently managed by current Council and operational practices and procedures.

OPTIONS

Council could instead require that the Policy is reviewed and updated to reflect a more relevant strategic statement with respect to parks maintenance standards.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be rescinded immediately upon adoption of the Officers Recommendation.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

PL1807/200 Moved Councillor R Reekie, seconded Councillor L Miles

That the Council rescinds Council Policy 0217/3 – Parks Maintenance Standards.

CARRIED 5/0

6.4 STATUTORY REVIEW OF DELEGATIONS

SUBJECT INDEX:	Authorised Delegation of Power/Authority
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Director Finance and Corporate Services - Tony Nottle
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Revised Delegation LG3A Executive Function - Determining Applications Under Local Laws and Enforcement of Local Law Provisions showing proposed tracking changes 
	Attachment B Revised Delegation LG3A Executive Function - Determining Applications Under Local Laws and Enforcement of Local Law Provisions 
	Attachment C Revised Delegation LG3M Establishment of Panels of Pre-qualified Suppliers showing proposed tracking changes 
	Attachment D Revised Delegation LG3M Establishment of Panels of Pre-qualified Suppliers 
	Attachment E Revised Delegation BA1 Building Control showing proposed tracking changes 
	Attachment F Revised Delegation BA1 Building Control 
	Attachment G Revised Delegation PDR1 Development Control showing proposed tracking changes 
	Attachment H Revised Delegation PDR1 Development Control 
	Attachment I Revised Delegation LG3I Reserve Under the Control of the Local Government showing proposed tracking changes 
	Attachment J Revised Delegation LG3I Reserve Under the Control of the Local Government 
	Attachment K Revised Delegation LG7A Meeting with the Auditor showing proposed tracking changes 
	Attachment L Revised Delegation LG7A Meeting with the Auditor 
	Attachment M Revised Delegation CA1 The Powers and Duties of the Cat Act 2011 showing proposed tracking changes 
	Attachment N Revised Delegation CA1 The Powers and Duties of the Cat Act 2011 
	Attachment O Revised Delegation DA1 The Powers and Duties of the Dog Act 1976 including the authority to further delegate showing proposed tracking changes 
	Attachment P Revised Delegation DA1 The Powers and Duties of the Dog Act 1976 including the authority to further delegate 

PRÉCIS

The *Local Government Act 1995* requires delegations made under that Act to be reviewed by the delegator at least once every financial year. Additionally, delegations made under the *Cat Act 2011* and the *Dog Act 1976* are required to be reviewed once every financial year. This review is to fulfil those requirements.

BACKGROUND

Council has the ability to delegate the exercise of powers and discharge of duties to its Chief Executive Officer or to Committees. These delegations are required to be reviewed by the delegator (in this case the Council) at least once in every financial year.

STATUTORY ENVIRONMENT

Section 5.42 of the Act provides the Council with the ability to delegate powers and duties to its CEO. Some powers and duties cannot be delegated in accordance with Section 5.43 of the Act, such as matters that require an Absolute Majority decision of the Council.

Section 5.16 of the Act provides the ability for powers and duties to be delegated to Committees. This review is to comply with the requirements of Section 5.18 of the Act.

Section 127 of the *Building Act 2011* provides Council with the ability to delegate powers and duties to its CEO and Section 96(3) of the *Building Act 2011* provides Council with the ability to delegate the designation of authorised persons pursuant to Section 96(3) of the Act.

Clause 82 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, Schedule 2 *Deemed Provisions for Local Planning Schemes* provides Council with the ability to delegate powers and duties to its CEO.

The delegations must be contained in a Register. Wherever a decision has been made under delegated authority, records of the decision must be kept in accordance with the *Local Government (Administration) Regulations 1996*.

Section 44 of the *Cat Act 2011* provides the power for Council to delegate the exercise of its functions and discharge of its duties to the CEO. Section 47(2) of that Act requires the delegator to review delegations at least once every financial year.

Section 10AA of the *Dog Act 1976* provides Council with the ability to delegate powers and duties to its CEO. In accordance with Section 10AB(2) of that Act, the delegations must be reviewed at least once every financial year.

RELEVANT PLANS AND POLICIES

The Department of Local Government and Communities Operational Guidelines Number 17 - 'Delegations' and the Local Government (Administration) Regulations 1996 are both relevant to this matter.

FINANCIAL IMPLICATIONS

There are no financial implications involved in reviewing Delegations, however, utilisation of delegated authority creates organisational efficiencies. Without a system of delegated authority in place, a significant number of day-to-day local government decisions would need to be referred to Council as agenda reports. Having an effective delegated authority system in place reduces the turnaround time for some matters which allows for the Council to use its time to undertake its more strategic role.

Long-term Financial Plan Implications

There are no direct Long Term Financial Plan implications associated with this review.

STRATEGIC COMMUNITY OBJECTIVES

This statutory delegation review aligns with and supports the **Council's Key Goal Area 6** – 'Leadership' and more specifically **Community Objective 6.1** – 'Governance systems, process and practices are responsible, ethical and transparent'.

RISK ASSESSMENT

Not required for a review undertaken in accordance with statutory requirements.

CONSULTATION

The current delegations were developed with reference to the Department of Local Government and Communities Operational Guidelines Number 17 – 'Delegations'.

OFFICER COMMENT

There are a range of powers and duties delegated to the CEO in accordance with the powers provided by Sections 5.42(1)(a) and (b) of the *Local Government Act 1995*. These are largely recommended to continue unchanged, with the exception of proposed updates as identified in the table below. The table provides an overview of the current delegations and an explanation of the powers exercised by the CEO. Minor amendments are proposed to delegations LG3A, LG3M, BA1, PDR1, LG3I, LG7A, CA1 and DA1.

The reasons for the proposed changes to delegations LG3A, LG3M, BA1, PDR1, LG3I, LG7A, CA1 and DA1 have been documented in the 'Purpose' column for each delegation.

Delegations to the CEO

Description		Purpose
LG3A	<p>Executive Function</p> <p>To determine applications received by the City in accordance with a Local Law made by the City in accordance with Subdivision 2 of Division 3 of Part 3 of the <i>Local Government Act 1995</i> and to enforce the provisions of those local laws and to otherwise exercise the powers and discharge the duties of the local government under those local laws.</p> <p>(Attachment A)</p>	<p>Enables the CEO to determine applications in accordance with the relevant provisions of the Local Law and the ability to enforce the provisions of those local laws.</p> <p><u>Summary of proposed updates:</u></p> <p>Minor amendments are proposed to the Local Government Act Reference and Delegation Subject to assign the delegation with the correct and relevant section of the Act.</p> <p>(Attachment B)</p>
LG3B	<p>Acquisition of Property</p> <p>To acquire property on the local government's behalf in accordance with Section 5.43(d).</p>	<p>Allows the CEO to acquire property on behalf of the local government under the value of \$100,000.</p> <p>No change proposed.</p>

LG3C	<p>Disposing of Property To exercise the powers under Sections 3.58(2),(3) and (4).</p>	<p>Allows the CEO to sell or lease land or property subject to certain conditions as previously applied. Disposal via a sale is not to exceed \$20,000 for land or \$100,000 for all other property. Where disposed by way of lease or license there are restrictions on “first time” leases/licenses, annual value limitations, standard terms and general use requirements.</p> <p>This delegation was only recently updated at a Policy and Legislation Committee meeting on 26 June 2018 and has subsequently been listed at a Council meeting to be held on 25 July 2018 and therefore no change is recommended from that amended delegation.</p> <p><i>No change proposed.</i></p>
LG3D	<p>Notices Requiring Things to be Done To exercise the powers and discharge the duties of the local government under Sections 3.25(1), 3.26(2) and 3.26(3).</p>	<p>This provides for the ability to require actions from an owner or occupier relating to unsightly land, overgrown vegetation, rubbish etc.</p> <p><i>No change proposed.</i></p>
LG3E	<p>General Procedure for Entering Property To authorise persons on behalf of the local government for the purposes of discharging the duties under Section 3.31(2).</p>	<p>A person requires authorisation in order to enter property. This enables the CEO to authorise others instead of requiring Council approval.</p> <p><i>No change proposed.</i></p>
LG3F	<p>Power to Remove and Impound To authorise employees on behalf of the local government for the purposes of discharging the duties under Sections 3.39 and 3.40A(1).</p>	<p>A person requires authorisation in order to impound vehicles etc. This enables the CEO to authorise others instead of requiring Council approval.</p> <p><i>No change proposed.</i></p>
LG3G	<p>Disposing of Uncollected Goods To exercise the powers and discharge the duties of the local government under Sections 3.47(2) and 3.47(2a).</p>	<p>Enables the CEO to dispose of impounded goods when not collected in a specified time, including vehicles.</p> <p><i>No change proposed.</i></p>

LG3H	<p>Thoroughfare Closure To exercise the powers and discharge the duties of the local government under Sections 3.50(1), 3.50(1a), 3.50(4), 3.50(6) and 3.50A.</p>	<p>Enables the CEO to require the closure of roads.</p> <p><i>No change proposed.</i></p>
LG3J	<p>Inviting and Awarding Tenders To exercise the powers and discharge the duties of the local government under Regulations 11, 13, 14, 18 20 and 21A to publicly invite tenders by determining the written criteria for deciding which tender should be accepted.</p>	<p>Enables the CEO to invite and evaluate tenders prior to entering into a contract of a prescribed kind under which another person is to supply goods or services to the Council. Also provides the CEO with the ability to award tenders not exceeding a contract value of \$500,000.</p> <p>This delegation was reviewed during a recent procurement review process and an amended delegation was presented to the Policy & Legislation Committee on 26 June 2018 and has subsequently been listed at a Council meeting to be held on 25 July 2018 and therefore no change is recommended from that amended delegation.</p> <p><i>No change proposed.</i></p>
LG 3K	<p>Preliminary Selection of Tenderers Exercise the local government's powers and discharge of its duties under Regulation 21 of the Local Government (Functions and General) Regulations 1996 to decide whether to make a preliminary selection from amongst prospective tenderers by seeking expressions of interest with respect to the supply of the goods or services and to assess expressions of interest that have not been rejected under sub-regulation (1) or (2) and decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services.</p>	<p>Enables the CEO to exercise the local government's powers and discharge of its duties to implement, in accordance with the Tender Regulations and Tender Pre Selection Criteria Policy, a preliminary selection process if and when deemed appropriate or advantageous to the City.</p> <p>As with Delegation LG3J above, this was also extensively reviewed throughout the procurement review process. As such an amended Delegation was presented to the Policy & Legislation Committee on 26 June 2018 and has subsequently been listed at a Council meeting to be held on 25 July 2018 and therefore no change is recommended to that amended delegation.</p> <p><i>No change proposed.</i></p>

LG3L	<p>Airport Redevelopment Project - Inviting Tenders and Awarding Tenders</p> <p>To publicly invite tenders by determining the written criteria for deciding which tender should be accepted and to award tenders with a contract value up to \$1,000,000 subject to agreement from the CEO of the South West Development Commission (SWDC).</p>	<p>Due to the nature and scope of the Airport Redevelopment Project a specific tender delegation has been put in place which is required to be exercised in accordance with agreement from the CEO of the South West Development Commission (SWDC).</p> <p><i>No change proposed.</i></p>
LG3M	<p>Establishment of Panels of Pre-Qualified Suppliers</p> <p>To exercise the powers and discharge the duties of the local government under Part 4 Division 3 of the <i>Local Government (Functions and General) Regulations 1996</i> pursuant to Regulation 24AC(1)(b) to determine whether there is, or will be, a continuing need for the particular goods or services to be supplied by pre-qualified suppliers and in accordance with Regulations 24AD – 24AI establish panels of pre-qualified suppliers for provision of particular goods or services and in accordance with Regulation 24AJ enter into a contract, or contracts, for the supply of goods or services with a pre-qualified supplier who is part of a panel of pre-qualified suppliers for the supply of those particular goods or services.</p> <p><i>(Attachment C)</i></p>	<p>Enables the CEO to establish panels of pre-qualified suppliers in accordance with the relevant provisions of the Tender Regulations and the Council’s “Purchasing” Policy which in turn assists in streamlining Council operations and improving efficiency without compromising statutory or policy compliance or Council’s existing powers in relation to choice of tenderer.</p> <p><u>Summary of proposed updates</u></p> <p>Removal of numbering to title of City of Busselton Purchasing Policy to reflect new format.</p> <p>In addition removal of references to City of Busselton Tender Selection Criteria Policy 031 and City of Busselton Tender Pre Selection Criteria Policy 247 as these policies are proposed to be rescinded as part of a report presented to the Policy and Legislation Committee on 26 June 2018 which has subsequently been listed at a Council meeting to be held on 25 July 2018.</p> <p><i>(Attachment D)</i></p>
LG3N	<p>Amendments to the Consolidated Parking Scheme</p> <p>To exercise the powers and discharge the duties of the local government pursuant to Section 1.10 of the City of Busselton <i>Parking Local Law 2011</i> which was made in accordance with Part 3 of the <i>Local Government Act 1995</i> relating to prohibiting or regulating, by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region.</p>	<p>Enables the CEO to exercise the powers of Council contained in Section 1.10 of the <i>Parking Local Law 2011</i> to amend the City’s Consolidated Parking Scheme 2018 in accordance with the requirements of the City of Busselton <i>Parking Local Law 2011</i>. This instrument of delegation includes a call-in provision whereby any two or more Councillors may consider an amendment to the Scheme to be of strategic significance and/or high community interest and request the CEO to present the proposal to Council for consideration.</p> <p><i>No change proposed.</i></p>

LG3P	<p>Disposing of Property (General Aviation Precinct leases)</p> <p>To exercise the powers and discharge the duties of the local government relating to disposing of property by negotiating, advertising under Section 3.58 of the Act and entering into leases of land lots at the new Busselton-Margaret River Regional Airport General Aviation Precinct.</p>	<p>Enables the CEO to facilitate the efficient and expeditious leasing of up to 36 new land lots, where lease arrangements are expected to be both high volume and similar in nature. Current delegation arrangements are limited to \$25,000 per annum and only for renewals and therefore do not enable the intended course of action.</p> <p><i>No change proposed.</i></p>
LG5A	<p>Provision of Urgent Legal Services</p> <p>To provide authorisation in accordance with Clause 3.10 of Council Policy 085 “Legal Representation for Council Members and Employees” for urgent legal services to a maximum value of \$10,000.</p>	<p>Enables the CEO to exercise, on behalf of the Council, the powers of the Council under Clause 3.8 of Council Policy “Legal Representation for Council Members and Employees” to a maximum of \$10,000 in respect of each application when delays in the approval of an application are considered to be detrimental to the legal rights of the applicant.</p> <p>CEO approved applications are required to be submitted to the next Ordinary Meeting of Council.</p> <p><i>No change proposed.</i></p>
LG5B	<p>Directions Regarding Unauthorised Development</p> <p>To give directions in relation to unauthorised development and to authorise any action available to the responsible authority under the Planning and Development Act 2005 incidental to such written direction.</p>	<p>Provides for the ability to give a written direction to an owner or any other person having undertaken a development to remove, pull down, take up, or alter the development and restore the land as nearly as practicable to its condition immediately before the development commenced, to the satisfaction of the responsible authority.</p> <p><i>No change proposed.</i></p>
LG6A	<p>Payments from Municipal Fund and Trust Fund</p> <p>To exercise the powers and discharge the duties of the local government in accordance with regulation 12 of the <i>Local Government (Financial Management) Regulations 1996</i>.</p>	<p>Enables the payment of creditors without specific Council approval. All payments made must be reported to Council which is undertaken by way of a monthly report via the Finance Committee.</p> <p>Also includes a condition regarding a limitation on donations and sponsorships (max. \$1,000.)</p> <p><i>No change proposed.</i></p>

LG6B	<p>Power to Defer, Grant Discounts, Waive or Write Off Debts</p> <p>To exercise the powers and discharge the duties of the local government under Sections 6.12(1)(b), 6.12(1)(c) and 6.12(3) of the <i>Local Government Act 1995</i>.</p>	<p>Enables the CEO to deal with minor fee waivers, concessions and debt write-off requirements.</p> <p><i>No change proposed.</i></p>
LG6C	<p>Rates and Service Charges</p> <p>To exercise the powers and discharge the duties of the local government under Sections 6.49, 6.50(1), 6.60(2), 6.64(1), 6.64(3), 6.71(1), 6.74(1), 6.76(4) and 6.76(5).</p>	<p>Enables the CEO to determine due dates for rates and to take recovery action for unpaid rates.</p> <p><i>No change proposed.</i></p>
LG6D	<p>Investment</p> <p>To invest surplus funds in accordance with the Direct Investments section of the Council's Policy 218 "Investment".</p>	<p>Enables funds to be invested by the CEO as set out in Council Policy 218 "Investment".</p> <p><i>No change proposed.</i></p>
LG9A	<p>Appointment of Authorised Persons</p> <p>To authorise persons, or classes of persons, on behalf of the local government for the purposes of performing particular functions in accordance with Sections 9.10(1) and 9.10(2) of the <i>Local Government Act 1995</i>.</p>	<p>A person requires authorisation in order to take enforcement action. This enables the CEO to authorise others instead of requiring Council approval.</p> <p><i>No change proposed.</i></p>
LG9B	<p>Authorising Common Seal</p> <p>To authorise the affixing of the Common Seal of the City to a document that needs the City's Common Seal to be legally effective.</p>	<p>While the CEO can authorise the affixing of the Common Seal to a document as classified which in turn allows for no specific Council approval of individual documents being required, it is noted that it is also necessary for individual documents to be signed by both the Mayor and the CEO (or a senior employee authorised by the CEO and in accordance with Section 5.37 of the <i>Local Government Act 1995</i>).</p> <p><i>No change proposed.</i></p>
LG10A	<p>Claims Against the Local Government</p> <p>To consider claims against the local government for damage to property and either accept or deny liability.</p>	<p>This is intended only for minor claims within the City's insurance premium excess with a \$500 limit on claims made under this delegation.</p> <p><i>No change proposed.</i></p>

<p>BA1</p>	<p>Building Control To exercise the City's powers under the <i>Building Act 2011</i>, in particular the issuing of building permits.</p> <p>(Attachment E)</p>	<p>Enables the CEO to exercise the City's powers, including the ability to sub-delegate those powers.</p> <p><u>Summary of proposed updates</u></p> <p>Removes specific reference to Section 96 of the Act, which is merely one of the powers that can be delegated to the CEO through Section 127 of the Act and could create confusion as to whether the CEO can exercise and/or sub-delegate the other powers necessary for the City to meet its obligations to administer the Act.</p> <p>(Attachment F)</p>
<p>PDR1</p>	<p>Development Control To exercise the City's powers under the <i>Planning and Development Act 2005</i>, in particular the determination of applications for development approval.</p> <p>(Attachment G)</p>	<p>Enables the CEO to exercise the City's powers, including the ability to sub-delegate those powers.</p> <p><u>Summary of proposed updates</u></p> <p>Amends the requirements in Condition 5 for delegated decision-making in relation to applications for review by the State Administrative Tribunal subject to reconsideration orders, so that Council decisions can be reconsidered under delegation provided that the 'call-in' provisions set out in Condition 1 have not been exercised, rather than on the basis the reconsideration provisions set out in Condition 2 having been exercised.</p> <p>There is also an additional requirement in Condition 5 in that Councillors must first be briefed as per Condition 6, to enable Councillors to have an opportunity to exercise the 'call-in' provisions.</p> <p>The intent of the change is for the purpose of avoiding the 3-4 week delay associated with the reconsideration provisions, in resolving matters where mediation has resulted in an opportunity to reconsider an application and where the mediated outcome clearly addresses the Council's concerns.</p> <p>(Attachment H)</p>

Delegations from the Council to the CEO made in accordance with Section 5.42 of the *Local Government Act* have been utilised to enable the CEO to carry out powers and duties of the local government.

All other delegations are recommended to continue unchanged.

Committee delegations

Description	Purpose
<p>LG3I Reserve under the Control of the Local Government When constituted for a formal meeting and in accordance with Section 5.17(c) of the <i>Local Government Act 1995</i>, is delegated to adopt plans, policies or documents that relate to management of the Park.</p> <p>(Attachment I)</p>	<p>Enables the Meelup Regional Park Management Committee to meet formally for the purpose of reviewing and adopting plans, policies and documents relating to the management of the Park.</p> <p>This delegation is subject to conditions as follows:</p> <p>The Power or Duty is other than where those plans, policies or documents require adoption pursuant to a particular statutory power, and the Committee may not make any decision that would require expenditure of funds contrary to the adopted budget and any decisions shall not be actioned until the Committee meeting minutes have been formally received and noted by the Council.</p> <p><u>Summary of proposed updates</u></p> <p>No change is proposed to the content of the delegation, however, minor amendments are proposed to the format of the delegation for the purpose of creating consistency with other Council delegations.</p> <p>(Attachment J)</p>

Description	Purpose
<p>LG7A Meeting with the Auditor Authority to meet with the City's Auditor at least once every financial year on behalf of the Council in accordance with the requirements of Sections 7.12A(2), (3) and (4) of the <i>Local Government Act 1995</i> to consider the report of the City's Auditor and determine matters that require action to be taken by the City.</p> <p>Authority to review and endorse the City's report on any actions taken in response to an Auditor's report, prior to it being</p>	<p>Enables the Audit Committee to meet with the Auditor for the purpose of examining the report of the City's Auditor, make determinations on matters that require action to be taken by the Council and endorse actions taken in response to the Auditor's report.</p> <p>The conditions imposed on this delegation are as follows:</p> <p>(a) This delegation is not to be used where a Management Letter or Audit Report</p>

	<p>forwarded to the Minister.</p> <p><i>(Attachment K)</i></p>	<p>raises significant issues and the Local Government's meeting with the Auditor must be directed to the Council; and</p> <p>(b) Council has discretion to determine any conditions/limitations applicable to the use of delegated powers or duties.</p> <p><u>Summary of proposed updates</u></p> <p>Minor amendments are proposed by way of the inclusion of additional powers, duties and conditions being incorporated into the delegation to bring the delegation into line with WALGA's model.</p> <p><i>(Attachment L)</i></p>
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The reasons for the proposed changes to the delegations to the Meelup Regional Park Management Committee and the Audit Committee have been documented in the 'Purpose' column for each delegation.

Cat Act and Dog Act

Cat Act

Description		Purpose
<p>CA1</p>	<p>The Powers and Duties of the <i>Cat Act 2011</i> To delegate to the CEO all the powers and duties of the local government under the <i>Cat Act 2011</i>.</p> <p><i>(Attachment M)</i></p>	<p>To provide the CEO and staff with the ability to administer and enforce the provisions of the <i>Cat Act 2011</i> (the Act).</p> <p><u>Summary of proposed updates</u></p> <p>Change the wording of the Delegation Subject and Power/Duty for consistency with the wording of the Act.</p> <p><i>(Attachment N)</i></p>

Dog Act

Description		Purpose
DA1	<p>The Powers and Duties of the <i>Dog Act 1976</i> To delegate to the CEO all the powers and duties of the local government under the <i>Dog Act 1976</i> including the authority to further delegate.</p> <p><i>(Attachment O)</i></p>	<p>Provides the CEO and staff with the ability to administer and enforce the provisions of the <i>Dog Act 1976</i> (the Act).</p> <p><u>Summary of proposed updates</u></p> <p>Change the wording of the Delegation Subject and Power/Duty for consistency with the wording of the Act.</p> <p><i>(Attachment P)</i></p>

The reasons for the proposed changes for the delegations to the CEO under the *Cat Act 2011* and the *Dog Act 1976* have been documented in the 'Purpose' column for each delegation.

Having conducted the statutory annual review of delegations made under the *Local Government Act 1995*, *Building Act 2011*, *Planning and Development (Local Planning Schemes) Regulations 2015*, *Cat Act 2011* and *Dog Act 1976*, Officers are recommending changes to those delegations as listed in Attachments A through to P for the reasons outlined in the table above.

CONCLUSION

The existing delegations have served the organisation well and provide a sufficient level of authority to enable timely consideration of day-to-day local government matters as well as specific authority whereby the Council has recognised circumstances such as the nature of the airport redevelopment project.

OPTIONS

The Council may decide that it requires changes to the powers and discharge of duties delegated to the Chief Executive Officer or Committees, or choose to place conditions on any of the delegations.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Any determinations on the delegations will be effective immediately following the Council's decision.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

PL1807/201 Moved Councillor K Hick, seconded Councillor R Bennett

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council having conducted the statutory annual review of delegations made under the *Local Government Act 1995, Building Act 2011, Planning and Development (Local Planning Schemes) Regulations 2015, Cat Act 2011 and Dog Act 1976*:

1. Adopts the revised Delegation LG3A Executive Function - Determining Applications under Local Laws and Enforcement of Local Law Provisions as shown at Attachment B;
2. Adopts the revised Delegation LG3M Establishment of Panels of Pre-qualified Suppliers as shown at Attachment D;
3. Adopts the revised Delegation BA1 Building Control as shown at Attachment F;
4. Adopts the revised Delegation PDR1 Development Control as shown at Attachment H;
5. Adopts the revised Delegation LG3I Reserve under the Control of the Local Government as shown at Attachment J;
6. Adopts the revised Delegation LG7A Meeting with the Auditor as shown at Attachment L;
7. Adopts the revised Delegation CA1 The Powers and Duties of the *Cat Act 2011* as shown at Attachment N;
8. Adopts the revised Delegation DA1 The Powers and Duties of the *Dog Act 1976* including the authority to further delegate as shown at Attachment P; and
9. Notes that all other delegations have been reviewed and remain unchanged.

CARRIED 5/0

7. GENERAL DISCUSSION ITEMS

Nil

8. NEXT MEETING DATE

Tuesday, 28 August 2018

9. CLOSURE

The meeting closed at 2.30pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 27 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON TUESDAY, 28 AUGUST 2018.

DATE: _____

PRESIDING MEMBER: _____