



Policy and Legislation Committee

Minutes

CONFIRMED

Wednesday 26 July 2023



Our Vision

Where environment, lifestyle and opportunity meet!

Community Aspirations



KEY THEME 1

Environment

An environment that is valued, conserved and enjoyed by current and future generations.



KEY THEME 2

Lifestyle

A place that is relaxed, safe and friendly, with services and facilities that support positive lifestyles and wellbeing.



KEY THEME 3

Opportunity

A vibrant City with diverse opportunities and a prosperous economy.



KEY THEME 4

Leadership

A Council that connects with the community and is accountable in its decision making.

MINUTES

Minutes of a meeting of the Policy and Legislation Committee held in the Council Chambers, Administration Building, Southern Drive, Busselton, on Wednesday 26 July 2023 at 10:00 am.

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1 OFFICIAL OPENING

The City of Busselton welcomed Councillors, staff, guests and members of the public to the Policy and Legislation Committee of 26 July 2023.

The City of Busselton acknowledged the Wadandi and Bibbulmun people as the traditional custodians of this region and pay respects to Elders past and present.

This meeting was audio recorded for minute taking purposes.

2 ATTENDANCE

PRESIDING MEMBER	MEMBERS
Cr Ross Paine	Cr Kate Cox
	Cr Jodie Richards
	Cr Kate Cox
	Cr Phill Cronin
	Cr Grant Henley (<i>Deputy</i>)

OFFICERS		
Mr Tony Nottle	Chief Executive Officer	<i>from 11:14am</i>
Ms Sarah Pierson	Acting Director, Finance and Corporate Services	
Ms Rachel Runco	Acting Director, Planning and Development Services	
Mr Ben Whitehill	Manager Legal and Property Services	
Mr Tim Allingham	Manager Information Services	<i>from 11:00am</i>
Mr Ian McDowell	Ranger and Emergency Services Coordinator	
Ms Briony McGinty	Legal Officer	
Ms Ann Strang	Senior Leasing and Property Officer	
Ms Jo Barrett-Lennard	Governance Officer	

APOLOGIES
Cr Anne Ryan

3 DISCLOSURES OF INTEREST

DISCLOSURES OF FINANCIAL INTEREST

Nil

DISCLOSURES OF IMPARTIALITY INTEREST

Nil

4 PUBLIC QUESTION TIME

4.1 RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

4.2 QUESTION TIME FOR PUBLIC

Nil

5 CONFIRMATION AND RECEIPT OF MINUTES

5.1 Policy and Legislation Committee 10 May 2023

COMMITTEE DECISION

PL2307/496 Moved Cr Kate Cox, seconded Cr Jodie Richards

That the Minutes of the Policy and Legislation Committee 10 May 2023 be confirmed as a true and correct record.

CARRIED 5 / 0

6 REPORTS

6.1 DOGS LOCAL LAW

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Finance and Corporate Services
Reporting Officer:	Legal Officer - Briony McGinty
Authorised By:	Acting Director Finance and Corporate Services - Sarah Pierson
Nature of Decision:	Legislative: adoption of "legislative documents" such as local laws, local planning schemes and local planning policies.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Marked Up 2023 15.05 Dogs Local Law [6.1.1 - 18 pages] 2. Clean 2023 15.05 Dogs Local Law [6.1.2 - 18 pages]

COMMITTEE RECOMMENDATION

PL2307/497 Moved Cr Phill Cronin, seconded Cr Grant Henley

That the Council:

1. Commences the law-making process for the City of Busselton Dogs Local Law 2023; the purpose and effect of the local law being as follows:

Purpose: To repeal the Dogs Local Law of 2014 and make provisions about dogs which are permitted under the *Dog Act 1976*.

Effect: To provide Council with controls and regulatory measures in relation to matters such as the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs.
2. Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the *Local Government Act 1995*, by:
 - (a) Giving local public notice of the Proposed Local Law; and
 - (b) Giving a copy of the Proposed Local Law and public notice to the Minister for Local Government.
3. Notes that the CEO, after the close of the public consultation period, will submit a report to the Council on any submissions received on the Proposed Local Law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the Act.

CARRIED 5 / 0

OFFICER RECOMMENDATION

That the Council:

1. Commences the law-making process for the City of Busselton Dogs Local Law 2023; the purpose and effect of the local law being as follows:

Purpose: To repeal the Dogs Local Law of 2014 and make provisions about dogs which are permitted under the *Dog Act 1976*.

Effect: To provide Council with controls and regulatory measures in relation to matters such as the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs.
2. Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the *Local Government Act 1995*, by:
 - (a) Giving local public notice of the Proposed Local Law; and
 - (b) Giving a copy of the Proposed Local Law and public notice to the Minister for Local Government.
3. Notes that the CEO, after the close of the public consultation period, will submit a report to the Council on any submissions received on the Proposed Local Law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the Act.

EXECUTIVE SUMMARY

Under the *Local Government Act 1995* (the Act) local governments are required to carry out periodic reviews of their local laws to determine whether they should be repealed or amended. The City's existing *City of Busselton Dogs Local Law 2014* (Current Local Law) was last amended in 2015 and requires review. An internal assessment has identified areas in which improvements could be made. It is recommended that Council initiates the law-making process and authorises the CEO to give local public notice of the proposed *City of Busselton Dogs Local Law 2023* (Proposed Local Law).

STRATEGIC CONTEXT

The provision of appropriate local laws in relation to dogs supports the good governance of the district.

BACKGROUND

The *Dog Act 1976* (the Dog Act) provides for the control, registration, ownership and keeping of dogs. Under the Dog Act, local governments may make local laws providing for, amongst other things:

- a) establishment and maintenance of dog management facilities,
- b) detention, care and release or disposal of dogs seized,

- c) licensing, use and inspection of approved kennel establishments; and
- d) requirements that premises where dogs are kept must be fenced in a manner capable of confining the dog.

Significant amendments to the Dog Act and associated regulations came into effect in 2013. Those amendments included the capacity for local governments to determine dog exercise and dog prohibited areas via Council resolution (rather than through an amendment to its local law). As a result, several provisions in the City's then "Dog by-laws" became obsolete. In 2014 the City adopted the Current Local Law to be consistent with the new Dog Act.

Section 3.16 of the Act requires that a local government should review its local laws every 8 years to determine whether they should be repealed or amended. The Current Local Law was gazetted in 2014 and was further amended in 2015. The Current Local Law is based on the WALGA model and has operated well since its inception. However, City officers have conducted an internal review which has resulted in proposed changes. Those changes have been incorporated into the Proposed Local Law which is presented to Council for consideration.

OFFICER COMMENT

State legislation provides for a three tiered system for regulating the care for and control of dogs, as outlined below:

Dog Act

Under the Dog Act local governments are provided with legislative controls in relation to matters such as:

- a) registration and identification of dogs;
- b) power to seize dogs;
- c) dogs to wear collars and registration tags;
- d) declaring of and dealing with dangerous dogs; and
- e) what constitutes a dog nuisance and how to deal with such a nuisance.

Local Laws

The Dog Act also extends to local governments the power to regulate, by way of a local law, matters such as:

- a) impounding of dogs;
- b) number of dogs that can be kept;
- c) establishment of approved kennels;
- d) manner in which dogs are to be confined by the occupier of a premises; and
- e) creation of offences for non-compliance with certain provisions of a local law.

Council resolutions

Local governments can determine dog exercise areas and areas where dogs are prohibited by an absolute majority decision after giving 28 days' notice of its intention to do so.

This report only deals with the local law-making power.

The City's Current Local Law is based on the WALGA model and is consistent with those of many other local governments. However, in reviewing the Current Local Law several changes have been identified as appropriate, to achieve a more contemporary local law. The changes can be seen in the "marked-up" version at Attachment A. For administrative ease, it is proposed to repeal the Current Local Law and replace it with the Proposed Local Law (rather than present an amendment local law), found at Attachment B.

The Proposed Local Law is divided into parts, described further below:

Part 1

The preliminary section deals with matters of a more technical nature including the official title of the local law, the commencement date, the area to which the local law shall apply, repealing the Current Local Law and defining terminology used in the local law.

Part 2

This section deals with the impounding of dogs. It provides for fees, charges and costs to be imposed and determined by Council in relation to the seizure and impounding, release and/or destruction and disposal of a dog and the times at which an authorised person (previously referred to as "pound keeper") has to be in attendance at the animal management facility (previously referred to as "pound").

Part 3

This section requires from an occupier of a premises on which a dog is kept to cause the relevant portion of such premises to be fenced in a manner capable of confining the dog. It also limits the number of dogs which may be kept on any premises (other than an approved kennel establishment), to 2 dogs and the young of those dogs under the age of 3 months. The Proposed Local Law also includes a provision where, if located in an area zoned rural, then the limit of dogs which may be kept without a permit under section 26(3) of the Dog Act increases to 4. This is consistent with the WALGA template (with minor wording changes). The purpose of this change is to remove the necessity for owners of rural premises to apply for a permit for the keeping of 3 or 4 dogs, which, based on the experience of City rangers, will likely be granted in any event due to the size of the property.

Part 4

This section regulates the process for obtaining and transferring a license for an approved kennel establishment and its cancellation. It requires an applicant to give notice of the proposed use of the premises as a kennel establishment (notice to be given in a newspaper circulating in the district and to owners and occupiers of adjoining premises). It also provides for payment of fees in relation to applying for and issuing of a license for an approved kennel establishment.

Part 5

Under this section a dog must not excrete on a public place or on privately owned land without the consent of the occupier of such land. It also requires from a person in control of such a dog to immediately remove excreta, failing which such a person commits an offence.

Part 6

This section of the Proposed Local Law deals with enforcement. A range of modified penalties (specified in Schedule 3 of the local law) are created and persons responsible for enforcing the Proposed Local Law are authorised to issue infringement notices. The modified penalties for offences have not been updated since the Current Local Law's inception in 2014. Given the maximum modified penalty that can be imposed in a local law is \$500 per offence, the new general modified penalty of \$200 per offence is seen as appropriate (and in line with other local governments). A higher penalty applies for failing to provide means for effectively confining a dog that has been declared dangerous, given the potential consequences of such a failure.

Schedules

Schedule 1 of the Proposed Local Law consists of a template application for a licence for an approved kennel establishment. Schedule 2 contains draft conditions which could be imposed on a licence for an approved kennel establishment. Under Schedule 3 the offences in respect of which modified penalties apply, are specified.

Statutory Environment

Dog Act 1976

Section 51 of the Dog Act specifies the dog related matters in relation to which local governments may make local laws.

Local Government Act 1995

Section 3.16 of the Act requires that every 8 years a local law should be reviewed to determine whether it should be repealed or amended.

Section 3.5 of the Act provides Council with the head of power for making local laws, which stipulates:

A local government may make Local Laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.

The procedure for making local laws is set out in sections 3.12 to 3.17 of the Act and regulation 3 of the *Local Government (Functions and General) Regulations 1996* (WA). The person presiding at a Council meeting is to give notice of the purpose and effect of a proposed local law by ensuring that:

- the purpose and effect of the proposed local law is included in the agenda for that meeting; and
- the minutes of that Council meeting include the purpose and effect of the proposed local law.

The purpose and effect of the Proposed Local Law is as follows:

Purpose: To repeal the Dogs Local Law of 2014 and make provisions about dogs which are permitted under the *Dog Act 1976*.

Effect: To provide Council with controls and regulatory measures in relation to matters such as the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs.

Local public notice is to be given by advertising the Proposed Local Law in accordance with the requirements of sections 3.12(3) of the LG Act. The submission period must run for a minimum period of six weeks after which Council, having considered any submissions received, may resolve to make the local law as proposed or make a local law that is not significantly different from what was proposed.

Parliamentary Scrutiny

Section 42 of the *Interpretation Act 1984* allows the WA State Parliament to disallow a local law, which is a mechanism to guard against the making of subsidiary legislation that is not authorised or contemplated by the empowering enactment, has an adverse effect on existing rights or ousts or modifies the rules of fairness. Parliament has appointed the Joint Standing Committee on Delegated Legislation (JSC) which is a committee of State politicians from both houses of the Western Australian Parliament, to undertake an overseeing role on its behalf, which includes the power to scrutinise and recommend the disallowance of local laws to the Parliament. After gazettal, a copy of the Local Law will be sent to the JSC who will examine the local law and determine whether it complies with the abovementioned criteria.

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plan or policy:

Plan:

Not applicable.

Policy:

Not applicable.

Financial Implications

Costs associated with the advertising and gazettal of the Proposed Local Law will come from the legal budget. These costs are unlikely to exceed \$2,000. The increase in penalties is unlikely to materially impact the City's financial position.

External Stakeholder Consultation

Should Council resolve to commence the process of making the Proposed Local Law, public submissions will be invited as part of the statutory consultation process prescribed under section 3.12(3) of the Act. The submission period must run for a minimum period of 6 weeks after which the Council, having considered any submissions received, may resolve to adopt the Proposed Local Law or a law which is not significantly different.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework. No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could choose to vary the provisions of the Proposed Local Law in any number of ways. However, for the reasons outlined in this report, the Proposed Local Law is the form of local law recommended.

There will be further opportunity for considering and making changes to the Proposed Local Law following the public consultation process outlined above, provided the changes are not significantly different from what is currently proposed. If any changes are of a significant nature the local law would need to be re-advertised.

CONCLUSION

It is recommended that the Council initiate the law-making process and authorise the CEO to commence advertising the Proposed Local Law.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Milestone	Completion Date
Advertising of Proposed Local Law for public consultation commenced	August 2023
Report to Council on results of public consultation	October 2023

City of Busselton
Dogs Local Law 2023

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SCHEDULE 2 – CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

SCHEDULE 3 – OFFENCES IN RESPECT OF WHICH MODIFIED PENALTIES APPLY

Deleted: PART 1 - PRELIMINARY¶
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**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

City of Busselton

Dogs Local Law 2023

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Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Busselton resolved onto make the following local law.

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PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Busselton Dogs Local Law 2023*.

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1.2 Repeal

The *City of Busselton Dogs Local Law 2014* published in the *Government Gazette* on *26 November 2014* is repealed.

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1.3 Commencement

This local law comes into operation *on the 14th* day after the date of its publication in the *Government Gazette*.

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1.4 Definitions

In this local law unless the context otherwise requires –

Act means the *Dog Act 1976*;

authorised person means a person appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;

CEO means the Chief Executive Officer of the local government;

dangerous dog has the meaning given to it in the Act;

dog management facility has the meaning given to it in the Act;

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district means the area of the State that has been declared to be the district of the local government under the *Local Government Act 1995* and includes, for certain purposes provided for in the Act, other areas which although not being within the boundaries of the district are regarded for those purposes as being part of the district;

local government means the City of Busselton;

local planning scheme means a local planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district;

owner, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

person liable for the control of the dog has the same meaning as in section 3(1) of the Act;

development approval means an approval issued under the a local planning scheme;

premises has the same meaning as in section 3(1) of the Act;

Regulations means the *Dog Regulations 2013*;

Schedule means a Schedule to this local law; and

thoroughfare has the meaning given to it in section 1.4 of the *Local Government Act 1995*.

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Deleted: *pound* means any facility, or any replacement facility, established as a pound by the local government under section 11(1) of the Act;¶

¶
pound keeper means a person appointed by the local government to perform all or any of the functions conferred on a "pound keeper" under this local law;¶

1.5 Application

This local law applies throughout the district.

PART 2 - IMPOUNDING OF DOGS

2.1 Fees, charges and costs

The following fees, charges and costs are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995* –

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of **authorised person at dog management facility**

The **authorised person** is to be in attendance at the **dog management facility** for the release of dogs at the times and on the days of the week as are determined by the CEO.

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2.3 Release of impounded dog

- (1) A claim for the release of an **impounded** dog is to be made to the **authorised person** or, in the absence of the **authorised person**, to the CEO.
- (2) The **authorised person** is not to release an **impounded** dog to any person unless that person has produced, to the satisfaction of the **authorised person** (or in the absence of the **authorised person**, to the CEO) satisfactory evidence **they are** –
 - (a) **the registered owner of the dog; or**
 - (b) **an agent acting on behalf of the registered owner of the dog; or**
 - (c) **an authorised representative of a registered animal rescue group collecting the dog for the purpose of rehoming it.**

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PART 3 - REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must –
 - (a) cause that portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
 - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
 - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures the dog remains confined) and is fitted with a proper latch or other means of fastening it;
 - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
 - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) An occupier who fails to comply with subclause (1) commits an offence.

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been –
 - (a) licensed under Part 4 of this local law as an approved kennel establishment; or
 - (b) granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act –
 - (a) 2 dogs over the age of 3 months and the young of those dogs under that age; or
 - (b) If the premises is situated in an area zoned rural under the local planning scheme, 4 dogs over the age of 3 months and the young of those dogs under that age.

PART 4 - APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2 of this local law -

Deleted: <#>of her or his ownership of the dog or of her or his authority to take delivery of it; or¶
<#>¶
<#>that he or she is the person identified as the owner on a microchip implanted in the dog.¶

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adjoining includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;

licence means a licence to keep an approved kennel establishment on premises;

licensee means the holder of a licence;

premises means, in addition to the meaning given to it in section 3 of the Act, the premises described in the application for a licence; and

transferee means a person who applies for the transfer of a licence to her or him under clause 4.13.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1 of this local law, and must be lodged with the local government together with –

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the CEO, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs adopted or nominated by the local government;
- (e) the fee for the application for a licence referred to in clause 4.9(1); and
- (f) a copy of a **development approval** issued by the local government under a local planning scheme.

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4.3 Notice of proposed use

- (1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged –
 - (a) once in a newspaper circulating in the district; and
 - (b) to the owners and occupiers of any premises adjoining the premises.
- (2) The notices in subclause (1) must specify that –
 - (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
 - (b) the application and plans and specifications may be inspected at the offices of the local government.
- (3) Where –

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the CEO, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a –

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements;

under a local planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government until –

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

In determining an application for a licence, the local government is to have regard to –

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and

- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The local government cannot approve an application for a licence where –

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 Conditions of approval

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.
- (3) A licensee who fails to comply with the conditions of a licence commits an offence.

4.9 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.10 Form of licence

The licence is to be in the form determined by the local government and is to be issued to the licensee.

4.11 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.9(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.12 Variation or cancellation of licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence –
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of –
 - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.13 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be –
 - (a) made in the form determined by the local government;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with –
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.9(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 Notification

The local government is to give written notice to -

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.12(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.12 (2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

4.15 Objections and appeals

- (1) Where the local government makes a decision as to whether it will –
 - (a) grant an application for a licence;
 - (b) vary or cancel a licence; or
 - (c) impose or amend a condition to which a licence is subject,

the provisions of Division 1 of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

- (2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

4.16 Inspection of kennel

With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.

PART 5 - MISCELLANEOUS

5.1 Offence to excrete

- (1) A dog must not excrete on –
 - (a) any thoroughfare or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

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PART 5 - DOGS IN PUBLIC PLACES¶
 ¶
5.1 Places where dogs are prohibited absolutely¶
 ¶
 Designation of places where dogs are prohibited absolutely is dealt with in the Act.¶
 ¶
5.2 Places which are dog exercise areas¶
 ¶
 Designation of places which are dog exercise areas is dealt with in the Act.¶
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- (3) A person liable for the control of a dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 6 - ENFORCEMENT

6.1 Interpretation

In this Part -

infringement notice means the notice referred to in clause 6.5; and

notice of withdrawal means the notice referred to in clause 6.8.

6.2 Offences

A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

6.3 General penalty

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of the day during which the offence has continued.

6.4 Modified penalties

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if -
 - (a) the offence does not involve a dangerous dog; or
 - (b) the offence involves a dangerous dog, but an amount does not appear in the fifth column directly opposite that offence.
- (3) The amount appearing in the fifth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the offence involves a dangerous dog.

6.5 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

6.7 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver

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¶ Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.¶

¶

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to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgement.

6.8 Withdrawal of infringement notice

Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

6.9 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

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SCHEDULE 1 – APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT
[clause 4.2]

City of Busselton Dogs Local Law 2023

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I/we (full name)

of (postal address)

(telephone number)

(E-mail address)

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Apply for a licence for an approved kennel establishment at (address of premises)

For (number and breed of dogs)

* (insert name of person) will be residing at the premises on and from
(insert date)

* (insert name of person) will be residing (sufficiently close to the premises
so as to control the dogs and so as to ensure their health and welfare) at
(insert address of residence)
on and from (insert date).

Attached are -

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside -
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment**.

Signature of applicant

Date

* delete where inapplicable.

** see clause 4.2(d).

Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act 1976.

OFFICE USE ONLY

Application fee paid on [insert date].

SCHEDULE 2 – CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[clause 4.8(1)]

An application for a licence for an approved kennel establishment may be approved subject to the following conditions -

- (a) Each kennel, unless it is fully enclosed, must have a yard attached to it.
- (b) Each kennel and each yard must be at a distance of not less than -
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption.
- (c) Each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government,
- (d) The minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder.
- (e) The floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached.
- (f) The upper surface of the kennel floor must be –
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government.
- (g) All kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government.
- (h) The kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor.
- (i) Where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel.

- (j) From the floor, the lowest internal height of a kennel must be, whichever is the lesser of -
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position.
- (k) The walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government.
- (l) All external surfaces of each kennel must be kept in good condition.
- (m) The roof of each kennel must be constructed of impervious material.
- (n) All kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person.
- (o) All refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage.
- (p) Noise, odours, fleas, flies and other vectors of disease must be effectively controlled.
- (q) Suitable water must be available at the kennel via a properly supported standpipe and tap.
- (r) The licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside -
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

**SCHEDULE 3 – OFFENCES IN RESPECT OF WHICH MODIFIED PENALTIES
APPLY**

[clause ~~6.4~~]

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Item	Clause	Nature of offence	Modified penalty	Dangerous Dog Modified Penalty
1	3.1	Failing to provide means for effectively confining a dog	\$200	\$400
2	4.8	Failing to comply with the conditions of a licence	\$200	
3	6.1(2)	Dog excreting in prohibited place	\$200	

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This local law was made at the meeting of the Council of the City of Busselton on.....

Deleted: 12 November 2014

The Common Seal of the City of Busselton was affixed by authority of a resolution of the Council in the presence of –

GRANT DOUGLAS HENLEY, Mayor

Deleted: IAN WILLIAM STUBBS

ANTHONY GRAHAM NOTTLE, Chief Executive Officer

Deleted: MIKE STEPHEN LEE ARCHER

City of Busselton Dogs Local Law 2023

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SCHEDULE 1 – APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

SCHEDULE 2 – CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

SCHEDULE 3 – OFFENCES IN RESPECT OF WHICH MODIFIED PENALTIES APPLY

LOCAL GOVERNMENT ACT 1995
DOG ACT 1976

City of Busselton

Dogs Local Law 2023

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Busselton resolved onto make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Busselton Dogs Local Law 2023*.

1.2 Repeal

The *City of Busselton Dogs Local Law 2014* published in the *Government Gazette* on 26 November 2014 is repealed.

1.3 Commencement

This local law comes into operation on the 14th day after the date of its publication in the *Government Gazette*.

1.4 Definitions

In this local law unless the context otherwise requires –

Act means the *Dog Act 1976*;

authorised person means a person appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;

CEO means the Chief Executive Officer of the local government;

dangerous dog has the meaning given to it in the Act;

dog management facility has the meaning given to it in the Act;

district means the area of the State that has been declared to be the district of the local government under the *Local Government Act 1995* and includes, for certain purposes provided for in the Act, other areas which although not being within the boundaries of the district are regarded for those purposes as being part of the district;

local government means the City of Busselton;

local planning scheme means a local planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district;

owner, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

person liable for the control of the dog has the same meaning as in section 3(1) of the Act;

development approval means an approval issued under the a local planning scheme;

premises has the same meaning as in section 3(1) of the Act;

Regulations means the *Dog Regulations 2013*;

Schedule means a Schedule to this local law; and

thoroughfare has the meaning given to it in section 1.4 of the *Local Government Act 1995*.

1.5 Application

This local law applies throughout the district.

PART 2 - IMPOUNDING OF DOGS

2.1 Fees, charges and costs

The following fees, charges and costs are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995* –

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of authorised person at dog management facility

The authorised person is to be in attendance at the dog management facility for the release of dogs at the times and on the days of the week as are determined by the CEO.

2.3 Release of impounded dog

- (1) A claim for the release of an impounded dog is to be made to the authorised person or, in the absence of the authorised person, to the CEO.
- (2) The authorised person is not to release an impounded dog to any person unless that person has produced, to the satisfaction of the authorised person (or in the absence of the authorised person, to the CEO) satisfactory evidence they are –
 - (a) the registered owner of the dog; or
 - (b) an agent acting on behalf of the registered owner of the dog; or
 - (c) an authorised representative of a registered animal rescue group collecting the dog for the purpose of rehoming it.

PART 3 - REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must –
 - (a) cause that portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
 - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
 - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures the dog remains confined) and is fitted with a proper latch or other means of fastening it;
 - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
 - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) An occupier who fails to comply with subclause (1) commits an offence.

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been –
 - (a) licensed under Part 4 of this local law as an approved kennel establishment; or
 - (b) granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act –
 - (a) 2 dogs over the age of 3 months and the young of those dogs under that age; or
 - (b) If the premises is situated in an area zoned rural under the local planning scheme, 4 dogs over the age of 3 months and the young of those dogs under that age.

PART 4 - APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2 of this local law -

adjoining includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;

licence means a licence to keep an approved kennel establishment on premises;

licensee means the holder of a licence;

premises means, in addition to the meaning given to it in section 3 of the Act, the premises described in the application for a licence; and

transferee means a person who applies for the transfer of a licence to her or him under clause 4.13.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1 of this local law, and must be lodged with the local government together with –

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the CEO, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs adopted or nominated by the local government;
- (e) the fee for the application for a licence referred to in clause 4.9(1); and
- (f) a copy of a development approval issued by the local government under a local planning scheme.

4.3 Notice of proposed use

- (1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged –
 - (a) once in a newspaper circulating in the district; and
 - (b) to the owners and occupiers of any premises adjoining the premises.
- (2) The notices in subclause (1) must specify that –
 - (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
 - (b) the application and plans and specifications may be inspected at the offices of the local government.
- (3) Where –

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the CEO, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a –

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements;

under a local planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government until –

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

In determining an application for a licence, the local government is to have regard to –

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and

- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The local government cannot approve an application for a licence where –

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 Conditions of approval

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.
- (3) A licensee who fails to comply with the conditions of a licence commits an offence.

4.9 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.10 Form of licence

The licence is to be in the form determined by the local government and is to be issued to the licensee.

4.11 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.9(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.12 Variation or cancellation of licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence –
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of –
 - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.13 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be –
 - (a) made in the form determined by the local government;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with –
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.9(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 Notification

The local government is to give written notice to -

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.12(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.12 (2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

4.15 Objections and appeals

- (1) Where the local government makes a decision as to whether it will –
 - (a) grant an application for a licence;
 - (b) vary or cancel a licence; or
 - (c) impose or amend a condition to which a licence is subject,

the provisions of Division 1 of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

- (2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

4.16 Inspection of kennel

With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.

PART 5 - MISCELLANEOUS

5.1 Offence to excrete

- (1) A dog must not excrete on –
 - (a) any thoroughfare or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

- (3) A person liable for the control of a dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 6 - ENFORCEMENT

6.1 Interpretation

In this Part -

infringement notice means the notice referred to in clause 6.5; and

notice of withdrawal means the notice referred to in clause 6.8.

6.2 Offences

A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

6.3 General penalty

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of the day during which the offence has continued.

6.4 Modified penalties

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if -
 - (a) the offence does not involve a dangerous dog; or
 - (b) the offence involves a dangerous dog, but an amount does not appear in the fifth column directly opposite that offence.
- (3) The amount appearing in the fifth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the offence involves a dangerous dog.

6.5 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

6.7 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgement.

6.8 Withdrawal of infringement notice

Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

6.9 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

SCHEDULE 1 – APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[clause 4.2]

City of Busselton Dogs Local Law 2023

I/we (full name)

of (postal address)

(telephone number)

(E-mail address)

Apply for a licence for an approved kennel establishment at (address of premises)

.....

For (number and breed of dogs)

* (insert name of person) will be residing at the premises on and from
(insert date)

* (insert name of person) will be residing (sufficiently close to the premises
so as to control the dogs and so as to ensure their health and welfare) at
..... (insert address of residence)
on and from (insert date).

Attached are -

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside -
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment**.

Signature of applicant

Date

* delete where inapplicable.

** see clause 4.2(d).

Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act 1976.

OFFICE USE ONLY

Application fee paid on [insert date].

SCHEDULE 2 – CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[clause 4.8(1)]

An application for a licence for an approved kennel establishment may be approved subject to the following conditions -

- (a) Each kennel, unless it is fully enclosed, must have a yard attached to it.
- (b) Each kennel and each yard must be at a distance of not less than -
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption.
- (c) Each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government,
- (d) The minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder.
- (e) The floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached.
- (f) The upper surface of the kennel floor must be –
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government.
- (g) All kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government.
- (h) The kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor.
- (i) Where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel.

- (j) From the floor, the lowest internal height of a kennel must be, whichever is the lesser of -
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position.
- (k) The walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government.
- (l) All external surfaces of each kennel must be kept in good condition.
- (m) The roof of each kennel must be constructed of impervious material.
- (n) All kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person.
- (o) All refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage.
- (p) Noise, odours, fleas, flies and other vectors of disease must be effectively controlled.
- (q) Suitable water must be available at the kennel via a properly supported standpipe and tap.
- (r) The licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside -
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

**SCHEDULE 3 – OFFENCES IN RESPECT OF WHICH MODIFIED PENALTIES
APPLY**
[clause 6.4]

Item	Clause	Nature of offence	Modified penalty	Dangerous Dog Modified Penalty
1	3.1	Failing to provide means for effectively confining a dog	\$200	\$400
2	4.8	Failing to comply with the conditions of a licence	\$200	
3	6.1(2)	Dog excreting in prohibited place	\$200	

This local law was made at the meeting of the Council of the City of Busselton on.....

The Common Seal of the City of Busselton was affixed by authority of a resolution of the Council in the presence of –

GRANT DOUGLAS HENLEY, Mayor

ANTHONY GRAHAM NOTTLE, Chief Executive Officer

10:12am: At this time, Ms Runco and Mr McDowell left the meeting.

6.2 DELEGATION OF POWER TO DISPOSE OF RESIDENTIAL PROPERTY BY LEASE

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Finance and Corporate Services
Reporting Officer:	Senior Leasing and Property Officer - Ann Strang
Authorised By:	Acting Director Finance and Corporate Services - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Proposed DA 1 - 22C Disposition of Residential Property by Lease [6.2.1 - 1 page]

COMMITTEE RECOMMENDATION

PL2307/498 Moved Cr Kate Cox, seconded Cr Grant Henley

That the Council adopts the instrument of delegation at Attachment 1.

CARRIED 5 / 0

OFFICER RECOMMENDATION

That the Council adopts the instrument of delegation at Attachment 1.

EXECUTIVE SUMMARY

This report proposes that Council adopt a new delegation for the disposal of residential property by lease to a person.

STRATEGIC CONTEXT

The provision of housing by lease supports the strategic priority of providing diverse and affordable housing options for our community. Appropriate delegation of authority for the function of leasing of residential property is important for providing good governance and efficient decision making.

BACKGROUND

The City of Busselton currently has an interest in more than 50 residential premises. These include:

- 28 units known as Winderlup Villas at 6 Marine Terrace and 21 West Street, Busselton operated by the City under a Joint Venture Agreement with the Housing Authority to provide community housing to eligible seniors;
- 14 units known as Kweelam Court at 26 Harris Road, Busselton, operated under a Joint Venture Agreement with the Housing Authority to provide community housing to eligible seniors;
- 7 units known as Winderlup Court at 21 West Street, Busselton for seniors; and
- a house located 78 Vasse Highway, Bovell.

The existing delegations for disposal of property do not specifically deal with the disposal of residential property by lease. Historically officers have relied on a previous signing delegation to dispose of residential property by lease. The purpose of this report is to provide a clear delegation of authority to the CEO to lease residential property to a person.

OFFICER COMMENT

Delegations of authority are an integral part of the City's governance functions. Delegations of authority are an effective and efficient means of carrying out the functions or discharging the duties of the local government, by allowing decisions of Council to be made (with or without conditions) by the Chief Executive Officer, who in turn can delegate to other staff where appropriate.

The existing delegations do not specifically deal with the disposal of residential property by lease. The purpose of the new delegation, which is attached to this report as Attachment 1, is to clarify that the CEO can dispose of residential property by lease. Adoption of the delegation will maintain administrative efficiency when dealing with leases of residential property.

Statutory Environment

Section 5.42 of the Local Government Act 1995 (LG Act) provides the Council with the ability to delegate powers and duties to its chief Executive Officer. 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 Council. Council has the right to impose conditions on any delegation it grants.

Section 5.43(d) of the LG Act states that a local government cannot delegate to a CEO the power of acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of that paragraph.

Section 5.46 of the LG Act requires that all delegations be contained within a Register. The Local Government (Administration) Regulations 1996 require that where a decision has been made under delegated authority, records of that decision must be kept in accordance with the Regulations.

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plan or policy:

Plan:

Not applicable.

Policy:

Not applicable.

Financial Implications

Not Applicable

External Stakeholder Consultation

Not Applicable

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place.

No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. not accept the delegation; or
2. request further amendments are made to the delegation.

CONCLUSION

It is recommended that Council adopt the delegation as per the Recommendation.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Amend Delegation of Authority Register to include new delegation	August 2023



Delegation of authority

Delegation	DA 1 – 22C Disposition of Residential Property by Lease
Head of power	01 Local Government Act 1995
Delegator	Local Government
Express power to delegate	<i>Local Government Act 1995</i> s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO
Express power or duty delegated	<i>Local Government Act 1995</i> s.3.18, s.3.58
Function	To dispose of residential property by lease to a person.
Delegates	CEO
Conditions	The consideration under any residential property lease is not to exceed \$50,000 per annum.
Record keeping	
Date adopted	
Adoption references	

10:15am: At this time, Mr Whitehill, Ms McGinty and Ms Strang left the meeting.

6.3 REVIEW OF THE POLICY AND LEGISLATION COMMITTEE

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Finance and Corporate Services
Reporting Officer:	Acting Director Finance and Corporate Services - Sarah Pierson
Authorised By:	Acting Director Finance and Corporate Services - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Policy and Legislation Committee Terms of Reference Proposed Edits [6.3.1 - 3 pages]

COMMITTEE RECOMMENDATION

PL2307/499 Moved Cr Phill Cronin, seconded Cr Jodie Richards

That the Council

1. notes the outcome of the evaluation of the Policy and Legislation Committee's (the Committee) effectiveness, in accordance with clause 8 of the Committee's Terms of Reference;
2. acknowledge that while the Committee is operating effectively, increased information and training for members would further improve its effectiveness and requests the CEO consider how this can be actioned;
3. Endorses the amendments proposed to the Committee's Terms of Reference as per Attachment 1.

CARRIED 5 / 0

OFFICER RECOMMENDATION

That the Council

1. notes the outcome of the evaluation of the Policy and Legislation Committee's (the Committee) effectiveness, in accordance with clause 8 of the Committee's Terms of Reference;

2. acknowledge that while the Committee is operating effectively, increased information and training for members would further improve its effectiveness and requests the CEO consider how this can be actioned;
3. Endorses the amendments proposed to the Committee's Terms of Reference as per Attachment 1.

EXECUTIVE SUMMARY

Under its Terms of Reference, the Policy and Legislation Committee (the Committee), at a meeting prior to the ordinary Local Government Elections, shall undertake a review to evaluate its effectiveness. Committee Members and City officers have reviewed the effectiveness of the Committee and this report presents the outcomes of that review for the Committee's consideration.

STRATEGIC CONTEXT

Regular review of Committees and their functioning aids in good governance.

BACKGROUND

Following the 2021 Council elections, and in accordance with clause 2.2 of the City of Busselton Standing Orders Local Law 2018, Council resolved to (re-)establish the Committee and adopted its Terms of Reference (ToR), which states:

8. EVALUATION OF COMMITTEE'S EFFECTIVENESS

- 8.1. *At the meeting of the Committee prior to the ordinary Council elections, the Committee shall undertake review to evaluate its effectiveness, and as a guide the following should be determined:*
 - a. *are the Committee's purpose and objectives being met?*
 - b. *should the purpose and objectives be amended?*
 - c. *is the Committee functioning effectively and as per the requirements of the Act?*
 - d. *are the Committee members regularly attending meetings?*
 - e. *review the Terms of Reference, including membership.*

With Council elections to be held in October this year, officers initiated the review process.

OFFICER COMMENT

In order to facilitate the review a survey link was opened to the Committee and Deputy Committee Members of the Committee from Friday 18th April until Monday 1st May 2023. Each Member was asked to respond to the following questions and provide comments where appropriate or required:

- a. Do you feel the Committee's purpose and objectives are being met? – Yes / No / Partly.
- b. In your opinion, is the Committee functioning effectively? If no, how could this be improved?

In addition to the questions asked of Committee Members, City officers assessed the following questions through a review of attendance and minutes:

- a. Is the Committee functioning as per the functions of the Act?
- b. Are committee members' regularly attending meetings?

The table below sets out the collated responses:

Question	Collated Response
Do you feel the Committee's purpose and objectives are being met?	4 responses Yes 1 response No <ul style="list-style-type: none"> Concerns were raised about the need for free flowing and constructive discussion and that this can be hampered where members have not taken the time to consider and understand the subject.
In your opinion, is the Committee functioning effectively?	3 responses Yes 2 response Partly
If no, how could this be improved?	Ensure discussion remains strategic and doesn't stray into operational detail and that participation of members is improved through the chair.
Is the Committee functioning as per the functions of the Act?	Yes, the Committee has been established in accordance with the Act and meets all requirements of the Act
Are committee members' regularly attending meetings?	Yes

Based on the responses provided, it is recommended that the Committee is generally operating effectively.

The suggestions for improvement relate to the effective running of the meeting, noting this is a meeting at which more informal discussion does tend to take place.

Other Committee reviews have recommended additional training for members of the Committees and it is felt that this may also assist with respect to the functioning of this Committee. Officers therefore recommend this be carried through as a recommendation for the review of this Committee.

With respect to the ToR the following amendments are proposed (Attachment A):

- Amendment to point 3.4 to provide for appointment of new members at either the next ordinary or a special council meeting post the election. With changes to the election process (preferential voting) flexibility is required;
- Removal of the delegation to schedule and endorse dates, times and locations of meetings held by the Committee. Officers do not believe this requires a delegation.

- Amendment of point 8 evaluation of the committee's effectiveness to provide for one single Committee review report to be presented to Council as opposed to each Committee evaluating their own effectiveness. For many years officers have undertaken a review of the committees and their terms of reference (ToR) (along with working groups) and provided a report to Council with Council then determining which Committees are to continue and any changes to ToR's. This has worked efficiently and has provided Council with the opportunity to review their Committee structure. It is therefore recommended that this process be used;
- Replacement of 'shall' with 'will'.

Statutory Environment

The Policy and Legislation Committee has been established in accordance with section 5.8 of the *Local Government Act 1995*.

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plan or policy:

Plan:
Not applicable.

Policy:
Not applicable.

Financial Implications

Not applicable.

External Stakeholder Consultation

In accordance with the Terms of Reference, the Committee and Deputy Committee Members of the Policy and Legislation Committee were consulted in undertaking the review into the Committee's effectiveness.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place.

No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could choose to evaluate the effectiveness of the Committee differently and / or make different of further amendments to the ToR.

CONCLUSION

An evaluation of the Committee's effectiveness is required under the Committee's ToR. This report presents an evaluation for the Committee's endorsement and recommendation to Council.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Milestone	Completion Date
Terms of Reference Updated	30 September 2023



Terms of Reference

Committee: Policy and Legislation

Responsible Directorate: Finance and Corporate Services

Version: Adopted~~Draft~~

1. INTRODUCTION

- 1.1. The Policy and Legislation Committee (the Committee) is established under the powers given in Section 5.8 of the *Local Government Act 1995* (the Act).
- 1.2. The Committee is established for the purpose of assisting the Council to undertake its role under Section 2.7(2)(b) of the Act, to determine the local government's policies, and its legislative function in accordance with Division 2 of Part 3 of the Act.
- 1.3. The Committee shall act for and on behalf of Council in accordance with the provisions of the Act, local laws and policies of the City of Busselton and these Terms of Reference.

2. OBJECTIVE

- 2.1. The objectives of the Committee are:
 - a. to assist the Council to determine the local government's policies and to carry out its legislative function;
 - b. to consider new and review existing policies and delegations of the City of Busselton;
 - c. to review local laws and other delegated legislation made by the City of Busselton;
 - d. to consider reports proposed to be put to the Council with significant policy or legislative implications; and
 - e. to review and advise the Council on specific matters relating to policy or legislation as directed by the Council.

3. MEMBERSHIP

- 3.1. The Council ~~will~~shall appoint five elected members to the Committee.
- 3.2. Council ~~will~~shall appoint four elected members as deputy members of the Committee.
- 3.3. Membership of the Committee ~~will~~shall, unless determined otherwise, cease on the day of the next ordinary Council election.
- 3.4. Council ~~will~~shall appoint new members to the Committee, in accordance with paragraphs 3.1 and 3.2, at ~~the next ma Special Meeting of the next ordinary~~ Council ~~meeting~~ following the Council election.
- 3.5. The membership of a member may be ceased in accordance with the Act.

4. PRESIDING MEMBER

- 4.1. The Committee ~~will~~shall appoint a Presiding Member and Deputy Presiding Member to conduct its business.

5. MEETINGS

- 5.1. The Committee ~~will~~ meet at least six times per year.
- 5.2. The Committee ~~will~~ report to Council in accordance with clause 2.10 of the *City of Busselton Standing Orders Local Law 2018*.
- 5.3. Notice of meetings ~~will~~ be given to members at least five days prior to each meeting, with the agenda papers to be provided to members not less than 72 hours prior to the meeting.
- 5.4. The Presiding Member ~~will~~ ensure that detailed minutes of all meetings are kept in accordance with the Part 14 of the *City of Busselton Standing Orders Local Law 2018*.
- 5.5. All members of the Committee ~~will~~ have one vote. If the vote of the members present is equally divided, the Presiding Member ~~will~~ cast a second vote.
- 5.6. Where the Committee makes a recommendation to the Council, the Chief Executive Officer ~~will~~ ensure that the recommendation is on the agenda of the next practicable ordinary Council meeting.

6. QUORUM

- 6.1. The quorum for a meeting ~~will~~ be at least 50% of the number of offices of membership, whether vacant or not.

7. DELEGATED POWERS

~~a. ; and~~

- ~~7.2. to note an item that does not require a recommendation to Council or further action~~ Pursuant to section 5.17 of the Act, the Committee is delegated the powers to ~~;~~

~~a. schedule and endorse the dates, times and locations of meetings to be held by the Committee;~~

- ~~7.3.7.1. to~~ refer a policy back to the Chief Executive Officer, or the Chief Executive Officer's nominee, with a request for further information or amendments to be made to the policy.

- ~~7.4.7.2.~~ Committee recommendations, other than those made in accordance with the delegated powers in paragraph 7.1, are not binding on Council and must be endorsed by Council to take effect.

8. EVALUATION OF COMMITTEE'S EFFECTIVENESS

- ~~At the meeting of the Council prior to the ordinary Council elections, officers will present for the Council's consideration, a review as to the effectiveness and ongoing relevance of the Committee. As a guide the following will be considered in the officers evaluation:~~
- ~~are the purpose and objectives of the Committee, as outlined in these terms of reference, being met?~~
- ~~should the purpose and objectives be amended?~~
- ~~is the Committee functioning effectively and as per the requirements of the Act?~~
- ~~are the Committee members regularly attending meetings?~~
- ~~do the the Terms of Reference require review, including membership.~~

- ~~8.1. At the meeting of the Committee prior to the ordinary Council elections, the Committee shall undertake review to evaluate its effectiveness, and as a guide the following should be determined:~~
 - ~~a. are the Committee's purpose and objectives being met?~~
 - ~~b. should the purpose and objectives be amended?~~
 - ~~c. is the Committee functioning effectively and as per the requirements of the Act?~~

- ~~d. are the Committee members regularly attending meetings?~~
- ~~e. review the Terms of Reference, including membership.~~

9. TERMINATION OF COMMITTEE

9.1. Termination of the Committee shall be by an absolute majority decision of Council.

10. APPROVAL

Council Adoption	DATE	8 September 2021	Resolution #	C2109/201
Previous Adoption	DATE	<u>8 September 2021</u> 25 September 2019	Resolution #	<u>C2109/201</u> C1909/191

6.4 RESCISSION OF COUNCIL POLICY 'SWEARING IN OF ELECTED MEMBERS'

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Finance and Corporate Services
Reporting Officer:	Acting Director Finance and Corporate Services - Sarah Pierson
Authorised By:	Acting Director Finance and Corporate Services - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. swearing-in-of-elected-members [6.4.1 - 2 pages]

COMMITTEE RECOMMENDATION

PL2307/500 Moved Cr Phill Cronin, seconded Cr Kate Cox

That the Council rescind Council Policy 'Swearing in of Elected Members' (Attachment 1), effective immediately.

CARRIED 5 / 0

OFFICER RECOMMENDATION

That the Council rescind Council Policy 'Swearing in of Elected Members' (Attachment 1), effective immediately.

EXECUTIVE SUMMARY

This report recommends the rescission of Council Policy 'Swearing in of Elected Members' (the Policy), with the Policy having been reviewed as part of the City's periodic review of its Council policies. The matters set out in the Policy are largely requirements under the *Local Government Act 1995* (the Act); hence the recommendation for rescission.

STRATEGIC CONTEXT

Regular review of City's policies reflects good governance.

BACKGROUND

The Policy was initially adopted in March 2010 and last reviewed in September 2019, where the title was changed from 'Convening of the Council Following an Ordinary Election' to 'Swearing in of Elected Members', and the Policy aligned to the City's new (at that time) Policy Framework and policy template.

The purpose of the Policy is to outline guidelines for the official swearing in ceremony of newly elected members as part of a special Council meeting.

OFFICER COMMENT

Officers propose that the Policy be rescinded as the swearing in of elected members is a requirement under the Act, as is the election of the Mayor (statutorily now by popular vote) and Deputy Mayor.

Persons successfully elected or re-elected cannot participate in the transaction of business until they have made the Elected Member declaration, in accordance with Section 2.29 of the Act. The current policy stipulates that this will occur Monday following the election, however changes to the election process may require this to be later, in the event of the count not being concluded or a recount being required. In any event, it will occur at a special Council meeting at the earliest practicable opportunity following the election, as will the election of the Deputy Mayor.

While it is proposed that the election of members to Council Committees and working groups continues to occur at this first special Council meeting, removal of a policy provision does provide for increased flexibility and allows the CEO, in consultation with the council of the day, to make changes as appropriate to the circumstances at the time of each election.

Similarly, the holding of function for newly Elected Members and their immediate family members to mark the occasion can also be reviewed in the lead up to each election. Although it is certainly recommended that this practice be continued in recognition of the momentous achievement of being elected to serve the community.

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.

A number of sections of the Act are relevant to the proposed policy, including:

- Section 2.29 which provides for the declaration of elected members before acting in the office;
- Section 5.8 of the Local Government Act 1995 provides for the establishment of committees; and
- Schedule 2.3, Division 1 of the Local Government Act 1995 provides for when and how mayors, presidents, deputy mayors and deputy presidents are elected by the Council.

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plan or policy:

Plan:
Not applicable.

Policy:
Not applicable.

Financial Implications

Not Applicable

External Stakeholder Consultation

Not Applicable

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place.

No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could decide to retain the Policy, in which case officers will further review and present amendments to the next Policy and Legislation Committee meeting.

CONCLUSION

This report recommends that Council Policy Swearing in of Elected Members is rescinded as part of the City's ongoing review of its policies, with the Policy provisions largely covered by the Act or being of an operational nature.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Milestone	Completion Date
Policy removed from the City's website	2 August 2023



Council Policy

Council Policy Name: Swearing in of Elected Members

Responsible Directorate: Finance and Corporate Services

Version: Adopted

1. PURPOSE

- 1.1. The purpose of this Policy is to outline the guidelines for the official swearing in ceremony to enable newly elected members to make a declaration in accordance with the provisions of the *Local Government Act 1995*.

2. SCOPE

- 2.1. This Policy is applicable to the elected member declaration and the Special Council Meeting of new and returning elected members following a local government election.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council policy titled "Swearing in of Elected Members"

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priority:
- a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

- 5.1. It is recognised that those successfully elected through a local government election cannot participate in the transaction of business until they have made the elected member declaration, which is undertaken at a swearing in ceremony.
- 5.2. The swearing in ceremony should be held in the Council Chambers on the first Monday following an ordinary election.
- 5.3. The swearing in ceremony should be conducted in accordance with Section 2.29 of the *Local Government Act 1995*.
- 5.4. The swearing in ceremony is to be the first item of business at the Special Council Meeting with the following items to be considered in this order:
- the election of the Mayor and Deputy Mayor;
 - the appointment of membership of Council's Committees; and
 - the appointment of membership of elected member delegates to various other groups, including working parties and informal groups.
- 5.5. The Special Meeting of Council is to be conducted in accordance with the provisions of Section 5.8 and Schedule 2.3, Division 1 of the *Local Government Act 1995*.

- 5.6. At the conclusion of the Special Meeting of Council, an informal function will be held for elected members and their immediate partners and/or families, with invitations extended to the Chief Executive Officer, Directors and other relevant employees.
- 5.7. Where an extraordinary election for the Council is conducted or an extraordinary Mayoral or Deputy Mayoral vacancy occurs, due regard should be given to the significance of the required ceremonies and a special meeting or ceremony be arranged where practicable.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	25 September 2019	Resolution #	C1909/185
Previous Adoption	DATE	8 April 2015	Resolution #	C1504/081

6.5 REVIEW OF COUNCIL POLICY 'FEES, ALLOWANCES AND EXPENSES FOR ELECTED MEMBERS'

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Finance and Corporate Services
Reporting Officer:	Acting Director Finance and Corporate Services - Sarah Pierson
Authorised By:	Acting Director Finance and Corporate Services - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> 1. Proposed Policy - Elected Member fees allowances and expenses for Elected Members [6.5.1 - 5 pages] 2. Current Policy - Fees, allowances and expenses for Elected Members [6.5.2 - 6 pages] 3. Track Changes Edits [6.5.3 - 7 pages]

COMMITTEE RECOMMENDATION

PL2307/501 Moved Cr Phill Cronin, seconded Cr Grant Henley

That the Council adopts the amended Council Policy 'Elected Member Fees, Allowances and Expenses' (Attachment 1), to replace the current policy titled 'Fees, Allowances and Expenses for Elected Members' (Attachment 2), inclusive of Committee amendments so that the following points read as follows, with subsequent renumbering as required:

- 5.5** As per Section 5.99 of the Act, Elected Members will be paid an annual attendance fee in lieu of fees for attending meetings referred to in Section 5.98(1) of the Act. Elected Members will be paid an annual fee within the relevant band set out in the Determination, as set each year by Council through the adoption of its budget.
- 5.8** Any equipment provided in accordance with this policy must be returned to the City at the expiry of an Elected Members term. After having served a minimum of 24 months, an Elected Member may on retiring choose to keep the equipment, subject to it being cleared by the City's IT department.
- 5.18** Spouse/ partner attendance on City sanctioned activities must be approved by the Mayor and CEO and will be at the Elected Member's expense. *(new)*
- 5.19** The City will also meet the following expenses:
- a. cost of laundry for Elected Member for greater than 5 nights;
 - b. reimbursement of taxi fares or other public transport where these directly relate to the activity and no other transport is provided;

- c. reimbursement of a daily sustenance allowance per day, in accordance with the Public Service Award 1992;
- d. specific conference / event related meals.

5.27 In addition to their entitlements as an Elected Member under this Policy, the Mayor is eligible for a Mayoral allowance in accordance with the Act. The Mayor will be paid an allowance within the relevant Band set out in the Determination, as set each year by Council through adoption of its budget. (previously 5.26)

CARRIED 5 / 0

Reasons: The Committee proposed amendments to the Policy to allow Council to determine the level of allowance paid to Elected Members each year through the budget. The Committee also sought to clarify conditions with equipment retention and spousal attendance at City sanctioned activities.

OFFICER RECOMMENDATION

That the Council adopts the amended Council Policy 'Elected Member Fees, Allowances and Expenses' (Attachment 1), to replace the current policy titled 'Fees, Allowances and Expenses for Elected Members' (Attachment 2).

EXECUTIVE SUMMARY

This report presents an amended Council Policy 'Elected Member Fees, Allowances and Expenses' (the Policy) (Attachment 1). The Policy has been reviewed as part of the City's ongoing policy review cycle and amended to reflect current provisions, with minor amendments and edits to improve readability.

STRATEGIC CONTEXT

The provision of fees, allowances and the reimbursement of expenses incurred while carrying out role functions ensures that elected members are appropriately remunerated for their work and aids in good governance. Regular review of policies also reflects good governance.

BACKGROUND

It is the function of the Policy and Legislation Committee to consider new and review existing Council policies. The City's Policy Framework sets out an ongoing cycle of policy review, with the aim of determining the ongoing strategic importance and applicability of Council policies.

The purpose of the Policy is to set out the fees, allowances, expense reimbursements and equipment that Elected Members are entitled to, such that they can effectively carry out their role. The Policy was last reviewed in its entirety in 2017, with further amendments made in 2018 in relation to childcare expenses for briefing sessions and workshops and travel reimbursements for 'flagship' events, and in 2019 in relation corporate attire provisions.

OFFICER COMMENT

The broad intention of the Policy is to provide a reimbursement framework which allows Elected Members to meet their commitments and effectively perform their role. Officers consider that the current policy achieves this intent, with the only substantive amendments proposed as follows:

1. The inclusion of a policy position with respect to Elected Member fees, ICT allowances and the Mayoral allowance, reflective of the current practice of remuneration being equal to the maximum payable under the relevant Salaries and Allowances Tribunal Determination (point 5.5, 5.9 and 5.26).
2. Amendment to the clause which covers the retention of City provided equipment to be more specific about what associated equipment is provided with a portable device and to ensure that any equipment retained by members is wiped prior to its retention, to protect City information and networks.
3. Clarity with respect to the making of accommodation and (where required) flight arrangements for an Elected Member required to travel overnight on City sanctioned activities; with the City to arrange these in the first instance (in consultation with the Elected Member), and reimbursement of reasonable costs to be provided in the event this is not possible. This reflects current practice.
4. A change from 2 nights to 5 nights for the payment of laundry costs when Elected Members are away on City sanctioned activities (point 5.18). Elected members generally only require laundry on longer trips.

Other minor amendments are recommended to improve the structure and readability of the Policy, for instance insertion of new point 5.3 in lieu of the same point being repeated under each subheading, and the combining of points within the travel expenses section to streamline the Policy content. It is recommended that the title be amended to provide for policies with respect to Elected Members to be grouped / located together in the City's policy listing.

Statutory Environment

In accordance with Section 2.7(2)(b) of the Local Government Act 1995 (the Act) 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.

Section 5.98(1) and 5.98(2A) of the Act entitles Council members to a fee for attending a council, committee or other prescribed meeting. Section 5.99 of the Act allows a local government to decide that instead of paying a fee referred to in Section 5.98(1), it will instead pay an annual fee determined by the Salaries and Allowances Tribunal Act 1975 or a fee set by the local government within the range for annual fees determined by the Salaries and Allowances Tribunal (SAT).

Section 5.98(5) entitles the mayor or president of a local government to be paid, in addition, an annual allowance determined for mayors or presidents or as set by the local government within the range determined by the SAT.

Section 5.98A allows a local government to pay the deputy mayor or deputy president an allowance, currently 25% as determined by the SAT.

Section 5.98(2)(b) of the Act and Regulation 32 of the *Local Government (Administration) Regulations 1996* provides that a Council member may be reimbursed for an expense of a kind prescribed where it has been approved by the local government and where it is incurred in performing a function in his or her capacity as a council member with the express authority of the local government. All reimbursements are to be in accordance with the determination made by the SAT.

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plan or policy:

Plan:

Not applicable.

Policy:

Not applicable.

Financial Implications

Not Applicable.

External Stakeholder Consultation

Not Applicable.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place.

No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Decide to retain the Policy in its current form.
2. Decide to make additional amendments.

CONCLUSION

This report recommends that Council adopt the amended Council policy 'Elected Member Fees, Allowances and Expenses,' to replace the current policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Milestone	Completion Date
Policy placed on the City's website	2 August 2023



Council Policy

Council Policy Name: Elected Member Fees, Allowances and Expenses

Responsible Directorate: Finance and Corporate Services **Version:** Proposed

1. PURPOSE

- 1.1. The purpose of this Policy is to set out the fees, allowances, expense reimbursements and equipment that Elected Members are entitled to, to enable them to carry out their role effectively.

2. SCOPE

- 2.1. This Policy is applicable to Elected Members in the performance of their functions and duties.
- 2.2. This Policy operates in accordance with and is limited by the *Local Government Act 1995*, the *Local Government (Administration) Regulations 1996* and the Local Government Chief Executive Officers and Elected Members Determination made under the *Salaries and Allowances Act 1975*.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Determination	the determination of the Salaries and Allowances Tribunal for Local Government Chief Executive Officers and Elected Members as current from time to time
Elected Member	any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor
Policy	this City of Busselton Council policy titled "Fees, Allowances and Expenses for Elected Members"
Regulations	<i>Local Government (Administration) Regulations 1996</i>

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priority:
- a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

- 5.1. In accordance with Division 8 of Part 5 of the Act, Elected Members are entitled to receive a fee for meeting attendance, to be reimbursed for expenses and/or be paid an allowance for certain types of expenses.
- 5.2. This Policy provides local government approval for payments not set out in the Act.
- 5.3. Fees and allowances under this Policy will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, Elected Members, for the purposes of budget development, will be requested to indicate their preferred payment method.
- 5.4. Reimbursements under this Policy must be submitted within three months of the expenses being incurred.

Elected Member fee

- 5.5. As per Section 5.99 of the Act, Elected Members will be paid an annual attendance fee in lieu of fees for attending meetings, with that fee being equal to the maximum fee set out in the Determination for the relevant Band.

Provision of equipment

- 5.6. Without limiting the application of any other clause in this Policy, the local government will provide to Elected Members access to reasonable resources to enable them to carry out their duties efficiently and effectively.
- 5.7. In accordance with Section 3.1 of the Act, in order to provide for the good government of persons in the District, new Elected Members will be provided upon request with the following equipment:
 - a. brief case up to the value of \$150;
 - b. standard-issue mobile telephone;
 - c. standard issue portable device, inclusive of mouse and power supply.
- 5.8. Any equipment (exclusive of City provided software) provided in accordance with this Policy can be retained by the Elected Member after serving a minimum of 24 months as an Elected Member. Equipment must be securely wiped by the City's IT department prior to retention.

Information and communication technology allowance

- 5.9. In accordance with the Determination, Elected Members will receive an annual information and communications technology allowance equal to the maximum allowance set out in the Determination to cover costs in relation to information and communications technology, for example telephone rental and call charges and internet service provider fees, and other costs of a kind prescribed by Regulation 32(1) of the Regulations.

Childcare expenses

- 5.10. In accordance with the 5.98(2)(a) of the Act Elected Members are entitled to be reimbursed childcare expenses incurred due to their attendance at:
 - a. a Council meeting
 - b. a meeting of a Committee of Council of which they are a member;
 - c. arranged briefing sessions and workshops within the district.

- 5.11. Reimbursement will be in accordance with the Determination, with the number of hours claimed limited to the actual length of the meeting plus a nominal time allowance for travel to and from the place of care.
- 5.12. Notwithstanding 5.11, reimbursement will be for the lowest minimum set rate of payment which provides coverage of the time calculated under paragraph 5.11.

Travel expenses

- 5.13. In accordance with the Act Elected Members are entitled to be reimbursed travel expenses incurred due to their attendance at:
 - a. a Council meeting;
 - b. a meeting of a Committee of Council of which they are a member;
 - c. Electors' meetings;
 - d. civic receptions hosted by the City of Busselton;
 - e. visits by Ministers of the Crown or other distinguished visitors of similar status;
 - f. City organised inspection tours;
 - g. any City-convened meeting by the Mayor or CEO requiring Elected Member attendance, including briefing sessions, workshops and other forums;
 - h. Elected Member training courses;
 - i. City organised meetings with ratepayers;
 - j. functions and events sponsored to a value of \$10,000 or more by the City of Busselton, held within the boundaries of the City, and where a specific invitation has been issued by the City's administration. Additionally other events may be approved from time to time by the Mayor and the CEO;
 - k. functions and events where the Mayor is unable to attend and has requested another elected member to attend on his behalf. This includes attendance at functions within the district for the purposes of presenting awards / gifts;
 - l. functions and events for the purposes of receiving awards on behalf of the City;
 - m. seminars and conferences attended in the capacity of an Elected Member as approved by the City in accordance with Council Policy "Councillors Induction, Training and Professional Development";
 - n. meetings of community groups or other external organisations of which the Elected Member has been appointed the Council's representative / delegate by Council resolution (except where the other body pays the elected member for meeting attendance and/or travel e.g. ministerial appointment to State Advisory Boards).
- 5.14. Reimbursement will be made available to Elected Members on the receipt of a certified claim form, in accordance with the Determination.
- 5.15. Where large distances are involved and when practicable, Elected Members are encouraged to use a City-owned motor vehicle in the first instance. Where a City vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed.
- 5.16. Subject to the approval of the Chief Executive Officer or delegate, Elected Members are entitled to use a City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use is of a minor incidental nature only.

Expenses while away from home on sanctioned activities

- 5.17. Where an Elected Member is required to stay overnight away from their place of residence for City sanctioned activities (conferences, training, seminars, attendance at intrastate functions)

accommodation will be arranged and paid for by the City in consultation with the Elected Member, with the key consideration being cost effectiveness and proximity to the location at which the activity is being held.

- 5.18. The City will also meet the following expenses:
- a. cost of laundry for Elected Member and spouse or partner for greater than 5 nights;
 - b. reimbursement of taxi fares or other public transport where these directly relate to the activity and no other transport is provided. Reimbursement for an Elected Member's spouse or partner is subject to them being accompanied by the Elected Member;
 - c. reimbursement of a daily sustenance allowance per day, in accordance with the Public Service Award 1992 for Elected Member only;
 - d. specific conference / event related meals for Elected Member and spouse or partner.
- 5.19. Air travel where applicable will be arranged and paid for by the City in consultation with the Elected Member. Air travel will be economy only, via the most direct and cost effective route.
- 5.20. Where the City is unable to arrange for accommodation or air travel, Elected Members will be reimbursed for any reasonable costs incurred.

Hospitality expenses

- 5.21. Elected Members may, subject to the provision of receipts and approval by the Mayor, seek reimbursement of the reasonable costs of beverages or snack items during any meeting or function for which they are entitled to reimbursement of travel under paragraph 5.136.

Corporate attire expenses

- 5.22. Upon election or re-election, Elected Members will within the first year of their term be entitled to the following business attire, up to a value of \$750:
- a. Business suit (male – 2 pairs of trousers and 1 jacket); or
 - b. Business suit (female – 2 skirts, dresses or pants and 1 jacket); and
 - c. Business shirt / blouse – 3;
 - d. Business tie / scarf – 1; and
 - e. Business shoes – 1 pair.
- 5.23. Additionally, upon election or re-election Elected Members will be entitled to the following corporate attire:
- a. Corporate (City branded) casual / light weight fleecy jacket – 1;
 - b. Corporate (City branded) polo top – 1; and
 - c. Corporate (City branded) tie / scarf – 1.
- 5.24. In years two, three and four of their term, Elected Members will be entitled to reimbursement of costs associated with the dry cleaning, maintenance and / or replacement of business attire, up to a value of \$250 per annum.
- 5.25. All items of business attire which are City branded should be returned to the City on expiry of office.

Mayoral Allowance

- 5.26. In addition to their entitlements as an Elected Member under this Policy, the Mayor is eligible for a Mayoral allowance in accordance with the Act, with the allowance being equal to the maximum allowance set out in the Determination for the relevant Band

Provision of a Mayoral vehicle

- 5.27. The Mayor shall be provided with a City-owned motor vehicle for use in his or her official capacity. The Mayor is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use is of a minor incidental nature only. Nothing in this section prevents the vehicle from being utilised in accordance with City fleet guidelines by other Elected Members, with the agreement of the Mayor.
- 5.28. The Mayor may additionally use the vehicle for private use for convenience or necessity on a cost recovery basis. Details of private use shall be recorded in a log book which shall be provided to the City on a quarterly basis, with reimbursement made to the City in one of the following ways:
- by deduction from the members allowance payment;
 - by invoice.
- 5.29. The mileage rate will be determined by the State Salaries and Allowances Tribunal.
- 5.30. Unless Council approves otherwise, the Mayoral vehicle may only be used for private purposes for travel within the State of WA.

Deputy Mayor's Allowance

- 5.31. In addition to their entitlements as an Elected Member under this Policy, the Deputy Mayor will be paid a Deputy Mayor's allowance in accordance with the Act and Determination.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. *Local Government (Administration) Regulations 1996*
- 6.3. Salaries and Allowances Tribunal Determination for Local Government Chief Executive Officers and Elected Members (as current from time to time)
- 6.4. Local Government Department Circular 9-2011

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	27 August 2019	Resolution #	C1908/164



Council Policy

Council Policy Name: Fees, Allowances and Expenses for Elected Members

Responsible Directorate: Finance and Corporate Services **Version:** Adopted

1. PURPOSE

- 1.1. The purpose of this Policy is to set out the fees, allowances, reimbursements and equipment that Elected Members are entitled to, to enable them to carry out their role effectively and efficiently.

2. SCOPE

- 2.1. This Policy is applicable to the purchase of all City of Busselton owned equipment for the specific and individual use of an Elected Member, the reimbursement of any expenses incurred by an Elected Member in the performance of their functions and duties, and fees and allowances provided to all Elected Members.
- 2.2. All matters approved in this Policy are in accordance with the relevant legislation, being the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996* and the Local Government Chief Executive Officers and Elected Members Determination made under the *Salaries and Allowances Act 1975*.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Determination	the determination of the Salaries and Allowances Tribunal for Local Government Chief Executive Officers and Elected Members as current from time to time
Elected Member	any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor
Policy	this City of Busselton Council policy titled "Fees, Allowances and Expenses for Elected Members"
Regulations	<i>Local Government (Administration) Regulations 1996</i>

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priority:
- a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

Elected Members

- 5.1. In accordance with Division 8 of Part 5 of the Act Elected Members are entitled to receive a fee for meeting attendance, to be reimbursed for expenses and/or be paid an allowance for certain types of expenses. Certain payments are an entitlement in accordance with the Act, while others require specific local government approval.
- 5.2. Reimbursements under this Policy must be submitted within three months of the expenses being incurred.

Elected Member fee

- 5.3. As per Section 5.99 of the Act, Elected Members will be paid an annual attendance fee in lieu of fees for attending meetings referred to in Section 5.98(1) of the Act. In accordance with the Determination Elected Members shall be paid an annual fee within the Band established as set by Council when the annual budget is adopted.
- 5.4. The annual fee will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, and Elected Member, for the purposes of budget development, will be requested to indicate their preferred payment method.

Provision of equipment

- 5.5. Without limiting the application of any other clause in this Policy, the local government will provide to Elected Members access to resources to enable them to carry out their duties efficiently and effectively.
- 5.6. In accordance with Section 3.1 of the Act, in order to provide for the good government of persons in the District, any new Elected Member will be provided upon request with the following equipment:
 - a. brief case up to the value of \$150;
 - b. standard-issue mobile telephone;
 - c. standard issue portable device that will be upgraded from time to time, inclusive of standard equipment associated with the day-to-day use of the device.
- 5.7. Any equipment provided in accordance with this Policy can be retained by the Elected Member at the completion of their term of office or if they serve a minimum of 24 months as an Elected Member.

Information and communication technology allowance

- 5.8. In accordance with the Determination, Elected Members are eligible to claim an annual information and communications technology allowance.
- 5.9. This allowance is to cover an Elected Member's costs in relation to expenses that relate to information and communications technology, for example telephone rental and call charges and internet service provider fees, and are of a kind prescribed by Regulation 32(1) of the Regulations.
- 5.10. The information and communications technology allowance will be paid monthly or quarterly in arrears. The allowance will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, Elected Members, for the purposes of budget development, will be requested to indicate whether it is their intention to claim the information and communications technology allowance and their preferred payment method.

Reimbursement of childcare expenses

- 5.11. In accordance with the 5.98(2)(a) of the Act an Elected Member who incurs childcare expenses due to their attendance at a Council meeting or a meeting of a formally constituted Council committee of which they are a member is entitled to be reimbursed.
- 5.12. In addition, pursuant to 5.98(2)(b) of the Act, an Elected Member who incurs childcare expenses due to their attendance as an Elected Member at arranged briefing sessions and workshops within the City of Busselton district is entitled to be reimbursed.
- 5.13. The extent to which childcare expenses incurred will be reimbursed will be in accordance with the Determination, with the number of hours claimed limited to the actual length of the meeting plus a nominal time allowance for travel to and from the place of care.
- 5.14. Notwithstanding 5.13, reimbursement will be for the lowest minimum set rate of payment which provides coverage of the time calculated under paragraph 5.13.

Reimbursement of travel expenses

- 5.15. In accordance with the Act an Elected Member who incurs expenses to travel to a Council meeting or a meeting of a formally constituted Council committee of which they are a member is entitled to be reimbursed. Elected Members can also be reimbursed for other types of travel in accordance with Regulation 32 of the Regulations.
- 5.16. The following list represents the meetings and other events for which Elected Members will be able to claim reimbursement in accordance with the Determination for incurring travel expenses:
 - a. Council meetings - ordinary and special;
 - b. Committee meetings of a formally constituted Council committee of which they are a member or a deputy member acting in the capacity of a member;
 - c. Electors' meetings - annual and special;
 - d. civic receptions hosted by the City of Busselton;
 - e. visits by Ministers of the Crown or other distinguished visitors of similar status;
 - f. City organised inspection tours of matters arising before the Council or as a JDAP member;
 - g. any City-convened meeting by the Mayor or CEO requiring Elected Member attendance, including briefing sessions, workshops and other forums;
 - h. Elected Member training courses;
 - i. City organised meetings with ratepayers;
 - j. attendance at functions and events sponsored to a value of \$10,000 or more by the City of Busselton through the Marketing and Events Reference Group funding, held within the boundaries of the City, and where a specific invitation has been issued by the City's administration. Additionally other events may be approved from time to time by the Mayor and the CEO;
 - k. where the Mayor is unable to attend a function or event and has requested another elected member to attend on his behalf. This includes attendance at functions within the district for the purposes of presenting awards / gifts;
 - l. attendance at functions and events for the purposes of receiving awards on behalf of the City;
 - m. seminars and conferences attended in the capacity of an Elected Member as approved by the City in accordance with Policy 08 "Councillors Induction, Training and Professional Development";
 - n. meetings of community groups or other external organisations of which the Elected Member has been appointed the Council's representative / delegate by Council resolution (except where the other body pays the elected member for meeting attendance and/or travel e.g. ministerial appointment to State Advisory Boards).

- 5.17. Where large distances are involved and when practicable, Elected Members are encouraged to use a City-owned motor vehicle in the first instance.
- 5.18. Reimbursement will be made available to Elected Members on the receipt of a certified claim form, in accordance with the Determination.
- 5.19. Where a City vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed.
- 5.20. Subject to the approval of the Chief Executive Officer or delegate, Elected Members are entitled to use a City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use is of a minor incidental nature only.

Reimbursement of expenses while away from home on sanctioned activities

- 5.21. Expenses incurred for conferences, training, seminars, attendance at intrastate functions for the purposes of receiving awards and similar occasions requiring an Elected Member to stay overnight away from their place of residence will be reimbursed to the Elected Member or paid directly by the City subject to and in accordance with paragraphs 5.22 and 5.23.
- 5.22. Air travel (where applicable) and accommodation will be arranged and paid for by the City in consultation with the Elected Member, with the key consideration being cost effectiveness and, in relation to accommodation, proximity to the location at which the conference, training, seminar or similar occasion is being held.
- 5.23. While staying in accommodation provided by the City, the City will also meet the following expenses:
 - a. cost of laundry for Elected Member and spouse or partner for greater than 2 nights;
 - b. taxi fares or other public transport where these directly relate to the activity and no other transport is provided. Reimbursement for an Elected Member's spouse or partner is subject to them being accompanied by the Elected Member;
 - c. daily sustenance allowance per day, in accordance with the Public Service Award 1992 for Elected Member only;
 - d. specific conference / event related meals for Elected Member and spouse or partner.

Reimbursement of hospitality expenses

- 5.24. Elected Members may, subject to the provision of receipts and approval by the Mayor, seek reimbursement of the reasonable costs of beverages or snack items provided during any meeting or function for which they are entitled to reimbursement of travel under paragraph 5.15 and 5.16.

Corporate attire expenses

- 5.25. Upon election or re-election, Elected Members will within the first year of their term be entitled to the following business attire, up to a value of \$750:
 - a. Business suit (male – 2 pairs of trousers and 1 jacket); or
 - b. Business suit (female – 2 skirts, dresses or pants and 1 jacket); and
 - c. Business shirt / blouse – 3;
 - d. Business tie / scarf – 1; and
 - e. Business shoes – 1 pair.

- 5.26. Additionally, upon election or re-election Elected Members will be entitled to the following corporate attire:
- Corporate (City branded) casual / light weight fleecy jacket – 1;
 - Corporate (City branded) polo top – 1; and
 - Corporate (City branded) tie / scarf – 1.
- 5.27. In years two, three and four of their term, Elected Members will be entitled to reimbursement of costs associated with the dry cleaning, maintenance and / or replacement of business attire, up to a value of \$250 per annum.
- 5.28. All items of business attire which are City branded should be returned to the City on expiry of office.

Mayor

Mayoral Allowance

- 5.29. In addition to their entitlements as an Elected Member under this Policy, the Mayor is eligible for a Mayoral allowance in accordance with the Act. In accordance with the Determination the Mayor shall be paid an allowance within the Band established as set by Council when the annual budget is adopted.
- 5.30. The allowance will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Mayoral allowance and their preferred payment method.

Provision of a Mayoral vehicle

- 5.31. The Mayor shall be provided with a City-owned motor vehicle for use in his or her official capacity. The Mayor is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use is of a minor incidental nature only. Nothing in this section prevents the vehicle from being utilised in accordance with City fleet guidelines by other Elected Members with the agreement of the Mayor.
- 5.32. The Mayor may also use the vehicle for private use for convenience or necessity on a cost recovery basis. Details of private use shall be recorded in a log book which shall be provided to the City on a quarterly basis with reimbursement made to the City in one of the following ways:
- by deduction from the quarterly members allowance payment;
 - an invoice provided to the Mayor.
- 5.33. The mileage rate will be determined by the State Salaries and Allowances Tribunal.
- 5.34. Unless Council approves otherwise, the Mayoral vehicle may only be used for private purposes for travel within the State of WA.

Deputy Mayor

Deputy Mayor's Allowance

- 5.35. In addition to their entitlements as an Elected Member under this Policy, the Deputy Mayor may be paid a Deputy Mayor's allowance in accordance with the Act. In accordance with the Determination the Deputy Mayor shall be paid 25% of the Mayoral allowance.

- 5.36. The allowance will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Deputy Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Deputy Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Deputy Mayor's allowance and their preferred payment schedule.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
 6.2. *Local Government (Administration) Regulations 1996*
 6.3. Salaries and Allowances Tribunal Determination for Local Government Chief Executive Officers and Elected Members (as current from time to time)
 6.4. Local Government Department Circular 9-2011

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	27 August 2019	Resolution #	C1908/164
Previous Adoption	DATE	12 December 2018	Resolution #	C1812/260



Council Policy

Council Policy Name: Elected Member Fees, Allowances and Expenses ~~for Elected Members~~

Responsible Directorate: Finance and Corporate Services

Version: Proposed ~~Adopted~~

1. PURPOSE

- 1.1. The purpose of this Policy is to set out the fees, allowances, expense reimbursements and equipment that Elected Members are entitled to, to enable them to carry out their role effectively ~~and efficiently~~.

2. SCOPE

- 2.1. This Policy is applicable to ~~the purchase of all City of Busselton owned equipment for the specific and individual use of an Elected Member, the reimbursement of any expenses incurred by an Elected Member~~ in the performance of their functions and duties, ~~and fees and allowances provided to all Elected Members~~.
- 2.2. ~~All matters approved in t~~This Policy operates ~~are~~ in accordance with and is limited by the ~~relevant legislation, being the Local Government Act 1995, and the Local Government (Administration) Regulations 1996~~ and the Local Government Chief Executive Officers and Elected Members Determination made under the *Salaries and Allowances Act 1975*.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Determination	the determination of the Salaries and Allowances Tribunal for Local Government Chief Executive Officers and Elected Members as current from time to time
Elected Member	any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor
Policy	this City of Busselton Council policy titled "Fees, Allowances and Expenses for Elected Members"
Regulations	<i>Local Government (Administration) Regulations 1996</i>

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priority:
- a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

Elected Members

5.1. In accordance with Division 8 of Part 5 of the Act, Elected Members are entitled to receive a fee for meeting attendance, to be reimbursed for expenses and/or be paid an allowance for certain types of expenses.

~~5.1.5.2.~~ This Policy provides local government approval for ~~Certain~~ payments not set out in the Act are an entitlement in accordance with the Act, while others require specific local government approval.

~~5.3.~~ Fees and allowances under this Policy will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, Elected Members, for the purposes of budget development, will be requested to indicate their preferred payment method.

~~5.2.5.4.~~ Reimbursements under this Policy must be submitted within three months of the expenses being incurred.

Elected Member fee

~~5.3.5.5.~~ As per Section 5.99 of the Act, Elected Members will be paid an annual attendance fee in lieu of fees for attending meetings, with that fee being equal to the maximum fee set out in the Determination for the relevant Band referred to in Section 5.98(1) of the Act. In accordance with the Determination Elected Members shall be paid an annual fee within the Band established as set by Council when the annual budget is adopted.

~~5.4.~~ The annual fee will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, and Elected Member, for the purposes of budget development, will be requested to indicate their preferred payment method.

Provision of equipment

~~5.5.5.6.~~ Without limiting the application of any other clause in this Policy, the local government will provide to Elected Members access to reasonable resources to enable them to carry out their duties efficiently and effectively.

~~5.7.~~ In accordance with Section 3.1 of the Act, in order to provide for the good government of persons in the District, ~~any~~ new Elected Members will be provided upon request with the following equipment:

- a. brief case up to the value of \$150;
- b. standard-issue mobile telephone;
- c. standard issue portable device ~~that will be upgraded from time to time~~, inclusive of mouse and power supply ~~standard equipment associated with the day-to-day use of the device.~~

~~5.6.5.8.~~ Any equipment (exclusive of City provided software) provided in accordance with this Policy can be retained by the Elected Member ~~after serving t the completion of their term of office or if they serve~~ a minimum of 24 months as an Elected Member. Equipment must be securely wiped by the City's IT department prior to retention.

Information and communication technology allowance

~~5.7.~~ In accordance with the Determination, Elected Members ~~will receive are eligible to claim~~ an annual information and communications technology allowance equal to the maximum allowance set out in the Determination to -

~~5.8.~~

- 5.9. ~~This allowance is to cover an Elected Member's costs in relation to expenses that relate to information and communications technology, for example telephone rental and call charges and internet service provider fees, and other costs are of a kind prescribed by Regulation 32(1) of the Regulations.~~

~~The information and communications technology allowance will be paid monthly or quarterly in arrears. The allowance will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, Elected Members, for the purposes of budget development, will be requested to indicate whether it is their intention to claim the information and communications technology allowance and their preferred payment method.~~

Reimbursement of childcare expenses

- 5.10. ~~In accordance with the 5.98(2)(a) of the Act an Elected Member are entitled to be reimbursed who incurs childcare expenses incurred due to their attendance at:~~

- ~~a. a Council meeting~~
- ~~b. or a meeting of a formally constituted Council committee of Council of which they are a member;~~
- ~~c. arranged briefing sessions and workshops within the district.~~
- ~~a. is entitled to be reimbursed.~~

- 5.10. ~~In addition, pursuant to 5.98(2)(b) of the Act, an Elected Member who incurs childcare expenses due to their attendance as an Elected Member at arranged briefing sessions and workshops within the City of Busselton district is entitled to be reimbursed.~~

- 5.11. ~~The extent to which childcare expenses incurred will be r~~Reimbursement~~mentd~~ will be in accordance with the Determination, with the number of hours claimed limited to the actual length of the meeting plus a nominal time allowance for travel to and from the place of care.

- 5.12. Notwithstanding 5.13~~1~~, reimbursement will be for the lowest minimum set rate of payment which provides coverage of the time calculated under paragraph 5.13~~1~~.

Reimbursement of travel expenses

- 5.13. ~~In accordance with the Act an Elected Member are entitled to be reimbursed who incurs expenses to travel expenses incurred due to their attendance at:~~

- ~~a. to a Council meeting;~~
- ~~b. a meeting of a Committee of Council of which they are a member;~~
- ~~a. or a meeting of a formally constituted Council committee of which they are a member is entitled to be reimbursed. Elected Members can also be reimbursed for other types of travel in accordance with Regulation 32 of the Regulations.~~

- 5.13. ~~The following list represents the meetings and other events for which Elected Members will be able to claim reimbursement in accordance with the Determination for incurring travel expenses:~~

- ~~a. Council meetings – ordinary and special;~~
~~Committee meetings of a formally constituted Council committee of which they are a member or a deputy member acting in the capacity of a member;~~
- ~~b.c. Electors' meetings – annual and special;~~
- ~~c.d. civic receptions hosted by the City of Busselton;~~
- ~~d.e. visits by Ministers of the Crown or other distinguished visitors of similar status;~~
- ~~e.f. City organised inspection tours of matters arising before the Council or as a JDAP member;~~
- ~~f.g. any City-convened meeting by the Mayor or CEO requiring Elected Member attendance, including briefing sessions, workshops and other forums;~~
- ~~g.h. Elected Member training courses;~~

~~h.i.~~ City organised meetings with ratepayers;

~~i.j.~~ ~~attendance at~~ functions and events sponsored to a value of \$10,000 or more by the City of Busselton ~~through the Marketing and Events Reference Group funding~~, held within the boundaries of the City, and where a specific invitation has been issued by the City's administration. Additionally other events may be approved from time to time by the Mayor and the CEO;

~~j.k.~~ ~~functions and events~~ where the Mayor is unable to attend ~~a function or event~~ and has requested another elected member to attend on his behalf. This includes attendance at functions within the district for the purposes of presenting awards / gifts;

~~k.l.~~ ~~attendance at~~ functions and events for the purposes of receiving awards on behalf of the City;

~~l.m.~~ seminars and conferences attended in the capacity of an Elected Member as approved by the City in accordance with Council Policy 08 "Councillors Induction, Training and Professional Development";

~~m.n.~~ meetings of community groups or other external organisations of which the Elected Member has been appointed the Council's representative / delegate by Council resolution (except where the other body pays the elected member for meeting attendance and/or travel e.g. ministerial appointment to State Advisory Boards).

5.14. Reimbursement will be made available to Elected Members on the receipt of a certified claim form, in accordance with the Determination.

~~5.14.5.15.~~ Where large distances are involved and when practicable, Elected Members are encouraged to use a City-owned motor vehicle in the first instance. Where a City vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed.

~~5.15.5.16. Reimbursement will be made available to Elected Members on the receipt of a certified claim form, in accordance with the Determination.~~

~~5.16.5.17. Where a City vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed.~~

~~5.17.5.18.~~ Subject to the approval of the Chief Executive Officer or delegate, Elected Members are entitled to use a City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use is of a minor incidental nature only.

Reimbursement of eExpenses while away from home on sanctioned activities

~~5.18. Where an Elected Member is required to stay overnight away from their place of residence for City sanctioned activities (Expenses incurred for conferences, training, seminars, attendance at intrastate functions) for the purposes of receiving awards and similar occasions requiring an Elected Member to stay overnight away from their place of residence will be reimbursed to the Elected Member or paid directly by the City subject to and in accordance with paragraphs 5.22 and 5.23.~~

~~5.19. —~~

~~5.20.5.19.~~ Air travel (where applicable) and accommodation will be arranged and paid for by the City in consultation with the Elected Member, with the key consideration being cost effectiveness and, ~~in relation to accommodation~~, proximity to the location at which the activity conference, training, seminar or similar occasion is being held.

~~5.21.5.20. While staying in accommodation provided by the City, t~~The City will also meet the following expenses:

- a. cost of laundry for Elected Member and spouse or partner for greater than 25 nights;

- b. reimbursement of taxi fares or other public transport where these directly relate to the activity and no other transport is provided. Reimbursement for an Elected Member's spouse or partner is subject to them being accompanied by the Elected Member;
- c. reimbursement of a daily sustenance allowance per day, in accordance with the Public Service Award 1992 for Elected Member only;
- d. specific conference / event related meals for Elected Member and spouse or partner.

5.21. Air travel where applicable will be arranged and paid for by the City in consultation with the Elected Member. Air travel will be economy only, via the most direct and cost effective route.

5.22. Where the City is unable to arrange for accommodation or air travel, Elected Members will be reimbursed for any reasonable costs incurred.

Reimbursement of Hospitality expenses

5.23. Elected Members may, subject to the provision of receipts and approval by the Mayor, seek reimbursement of the reasonable costs of beverages or snack items ~~provided~~ during any meeting or function for which they are entitled to reimbursement of travel under paragraph 5.13~~5~~ and 5.16.

Corporate attire expenses

5.24. Upon election or re-election, Elected Members will within the first year of their term be entitled to the following business attire, up to a value of \$750:

- a. Business suit (male – 2 pairs of trousers and 1 jacket); or
- b. Business suit (female – 2 skirts, dresses or pants and 1 jacket); and
- c. Business shirt / blouse – 3;
- d. Business tie / scarf – 1; and
- e. Business shoes – 1 pair.

5.25. Additionally, upon election or re-election Elected Members will be entitled to the following corporate attire:

- a. Corporate (City branded) casual / light weight fleecy jacket – 1;
- b. Corporate (City branded) polo top – 1; and
- c. Corporate (City branded) tie / scarf – 1.

5.26. In years two, three and four of their term, Elected Members will be entitled to reimbursement of costs associated with the dry cleaning, maintenance and / or replacement of business attire, up to a value of \$250 per annum.

5.27. All items of business attire which are City branded should be returned to the City on expiry of office.

Mayor

Mayoral Allowance

5.28. In addition to their entitlements as an Elected Member under this Policy, the Mayor is eligible for a Mayoral allowance in accordance with the Act, with the –allowance being equal to the maximum allowance set out in the Determination for the relevant Band ~~In accordance with the Determination the Mayor shall be paid an allowance within the Band established as set by Council when the annual budget is adopted.~~

~~5.29. The allowance will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Mayoral allowance and their preferred payment method.~~

Provision of a Mayoral vehicle

~~5.30-5.29.~~ The Mayor shall be provided with a City-owned motor vehicle for use in his or her official capacity.

The Mayor is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use is of a minor incidental nature only. Nothing in this section prevents the vehicle from being utilised in accordance with City fleet guidelines by other Elected Members, ~~with~~ with the agreement of the Mayor.

~~5.31-5.30.~~ The Mayor may ~~additionally~~ ~~also~~ use the vehicle for private use for convenience or necessity on a cost recovery basis. Details of private use shall be recorded in a log book which shall be provided to the City on a quarterly basis, ~~with~~ with reimbursement made to the City in one of the following ways:

- a. by deduction from the ~~quarterly~~ members allowance payment;
- b. ~~by an invoice provided to the Mayor.~~

~~5.32-5.31.~~ The mileage rate will be determined by the State Salaries and Allowances Tribunal.

~~5.33-5.32.~~ Unless Council approves otherwise, the Mayoral vehicle may only be used for private purposes for travel within the State of WA.

Deputy Mayor**Deputy Mayor's Allowance**

~~5.34-5.33.~~ In addition to their entitlements as an Elected Member under this Policy, the Deputy Mayor ~~will~~ ~~may~~ be paid a Deputy Mayor's allowance in accordance with the Act ~~and~~ ~~In accordance with the~~ ~~and~~ Determination ~~the Deputy Mayor shall be paid 25% of the Mayoral allowance.~~

~~5.35. The allowance will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Deputy Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Deputy Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Deputy Mayor's allowance and their preferred payment schedule.~~

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. *Local Government (Administration) Regulations 1996*
- 6.3. Salaries and Allowances Tribunal Determination for Local Government Chief Executive Officers and Elected Members (as current from time to time)
- 6.4. Local Government Department Circular 9-2011

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	27 August 2019	Resolution #	C1908/164
Previous Adoption	DATE	12 December 2018	Resolution #	C1812/260

6.6 REVIEW OF COUNCIL POLICY 'DESIGNATION OF SENIOR EMPLOYEE AND ACTING CEO'

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Office of the Chief Executive Officer
Reporting Officer:	Chief Executive Officer - Tony Nottle
Authorised By:	Chief Executive Officer - Tony Nottle
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> 1. Proposed Council Policy [6.6.1 - 2 pages] 2. Current Council Policy [6.6.2 - 2 pages] 3. Tracked Changes Proposed Council Policy [6.6.3 - 2 pages]

COMMITTEE RECOMMENDATION

PL2307/502 Moved Cr Grant Henley, seconded Cr Jodie Richards

That the Council:

- a) rescind the current Council Policy 'Designation of Senior Employees and Acting CEO' (Attachment 2), and
- b) request the CEO to bring a new Council Policy for the appointment of an Acting CEO to the Ordinary Council Meeting being held 16 August 2023.

CARRIED 5 / 0

Reasons: The Committee felt that the designation of senior employees was no longer necessary and that employment (appointment and termination) decisions in relation to all employees should reside with the CEO. In order to retain Council oversight over temporary appointments to the CEO position the Committee requested the CEO draft a new policy covering the appointment of an acting CEO.

OFFICER RECOMMENDATION

That the Council adopts the amended Council Policy 'Designation of Senior Employees and Acting CEO' (Attachment 1), to replace the current policy (Attachment 2).

EXECUTIVE SUMMARY

This report presents an amended Council Policy 'Designation of Senior Employees and Acting CEO' (Attachment 1) (the Policy). The Policy has been reviewed as the result of a recent organisational review and realignment of structure, in addition to being due for review as part of the City's ongoing policy review cycle.

STRATEGIC CONTEXT

The Designation of Senior Employees, while optional, forms part of the City's overall governance arrangements and provides Council oversight for the appointment and termination of executive positions of the City. Policy provisions with respect to the appointment of an Acting CEO ensures that Section 5.36 of the Act is met, while allowing the CEO flexibility to appoint an Acting CEO for shorter periods of leave.

BACKGROUND

It is the role of the Council broadly to govern the local government's affairs; and be responsible for the performance of the local government's functions, through (predominantly) overseeing the allocation of the local government's finances and resources and determining the local government's policies.

Under Section 5.41 of the *Local Government Act 1995* (the Act), the role of the CEO is to manage the day-to-day operations of the local government and to be responsible for the employment, management supervision, direction and dismissal of other employees. This however is subject to Section 5.37 of the Act in relation to Senior Employees.

Section 5.37(1) of the the Act provides for a local government to designate employees or persons belonging to a class of employees to be Senior Employees. Section 5.37(2) of the Act requires the CEO to inform the Council of each proposal to employ or dismiss a Senior Employee. The Council has had a policy covering the designation of Senior Employees since at least 2015.

Further, Section 5.36 of the Act establishes that a person is not to be employed in the position of CEO unless the council believes that the person is suitably qualified for the position. While the CEO has responsibility under their contract of employment for all staffing matters, including the appointment of an Acting CEO for periods of leave, it was identified during a review of the City's governance system that the lack of a formal policy position was a gap in the City's policy framework.

In June 2018 the Council therefore adopted a policy covering both the designation of Senior Employees and the appointment of an Acting CEO. The current policy was adopted in 2019 with minor amendments to identify the importance of succession planning for the position of CEO.

OFFICER COMMENT

The CEO has recently completed an organisational review, resulting in a realignment of the organisation's structure and adjustments to two of the City's Senior Employee positions, with the previous Director Community and Commercial Position replaced by the Director Business and Economic and Development position, and the position of Director Finance and Corporate Services to be Director Corporate and Strategic Performance moving forward. The Policy has therefore been updated to make these new positions Senior Employees.

Council is asked to adopt the amended policy, continuing to provide for the appointment of persons employed as Senior Employees to be appointed as Acting Chief Executive Officer during periods of Leave by the Chief Executive Officer or by Council, such that the continuous and efficient execution of the City's functions is maintained.

Statutory Environment

In accordance with Section 2.7(2)(b) of the *Local Government Act 1995* (the Act) 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.

As detailed in the background section of this report section 5.36 and 5.37 of the Act sets out requirements in relation to the appointment of a CEO and any designated Senior Employees.

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plan or policy:

Plan:

Not applicable.

Policy:

Not applicable.

Financial Implications

Not Applicable.

External Stakeholder Consultation

Not Applicable.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place.

No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Decide not to designate any Senior Employees, noting it is optional under the Act;
2. Decide not to designate the new positions as Senior Employees, noting under the current structure of the Policy they would not be able to act as CEO;
3. Decide to make additional amendments to the policy

CONCLUSION

This report recommends that Council adopt the amended Council policy 'Elected Member Fees, Allowances and Expenses,' to replace the current policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Milestone	Completion Date
Policy placed on the City's website	2 August 2023



Council Policy

Council Policy Name: Designation of Senior Employees and Acting CEO
Responsible Directorate: Finance and Corporate Services **Version:** Proposed

1. PURPOSE

- 1.1. The purpose of this Policy is to designate Senior Employees in accordance with Section 5.37(1) of the *Local Government Act 1995* and provide for the appointment of a Senior Employee as Acting Chief Executive Officer during periods of Leave by the Chief Executive Officer or by Council, such that the continuous and efficient execution of the City's functions is maintained.

2. SCOPE

- 2.1. This Policy is applicable to the role of Chief Executive Officer of the City of Busselton and those employees designated as Senior Employees.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Leave	annual or personal leave for periods of up to six continuous weeks
Policy	this City of Busselton Council policy titled "Designation of Senior Employees and Acting CEO"

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priorities:
- a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making; and
 - b. 4.4 Govern a professional organisation that is healthy, capable and engaged.

5. POLICY STATEMENT

- 5.1. In accordance with Section 5.37(1) of the Act, a local government may designate employees or persons belonging to a class of employees to be Senior Employees.
- 5.2. In accordance with Section 5.37(2) of the Act, the CEO is to inform the Council of each proposal to employ or dismiss a Senior Employee.
- 5.3. The Senior Employees of the City are designated as:
- a. Director, Community Planning; and
 - b. Director, Business and Economic Development;
 - c. Director, Engineering and Environment;
 - d. Director, Corporate and Strategic Performance

- 5.4. The Council has determined that those appointed as a Senior Employee are suitably qualified to perform the role of Acting Chief Executive Officer.
- 5.5. Council recognises that the appointment of Senior Employees to the role of Acting Chief Executive Officer is an effective succession planning strategy, providing Senior Employees with valuable exposure to and experience in the functions of a Chief Executive Officer.
- 5.6. Senior Employees will be appointed to the role of Acting Chief Executive Officer at the discretion of the Chief Executive Officer subject to performance and dependent on availability and operational requirements.
- 5.7. Appointment of a Senior Employee to the role of Acting Chief Executive Officer will be determined by Council resolution:
- for any periods exceeding six continuous weeks; or
 - in the event that the Chief Executive Officer is incapacitated or otherwise unable to make an appointment under paragraph 5.6.

6. RELATED DOCUMENTATION / LEGISLATION

6.1. *Local Government Act 1995*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	24 April 2019	Resolution #	C1904/075



Council Policy

Council Policy Name: Designation of Senior Employees and Acting CEO
Responsible Directorate: Finance and Corporate Services **Version:** Adopted

1. PURPOSE

- 1.1. The purpose of this Policy is to designate Senior Employees in accordance with Section 5.37(1) of the *Local Government Act 1995*.
- 1.2. The purpose of this Policy is to provide for the appointment of a Senior Employee as Acting Chief Executive Officer during periods of Leave by the Chief Executive Officer or by Council such that the continuous and efficient execution of the City's functions is maintained.

2. SCOPE

- 2.1. This Policy is applicable to the role of Chief Executive Officer of the City of Busselton and those employees designated as Senior Employees.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
City	City of Busselton
Council	the Council of the City of Busselton
Leave	annual or personal leave for periods of up to six continuous weeks
Policy	this City of Busselton Council policy titled "Designation of Senior Employees and Acting CEO"

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priorities:
 - a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making; and
 - b. 4.4 Govern a professional organisation that is healthy, capable and engaged.

5. POLICY STATEMENT

- 5.1. In accordance with Section 5.37(1) of the Act, a local government may designate employees or persons belonging to a class of employees to be Senior Employees.
- 5.2. In accordance with Section 5.37(2) of the Act, the CEO is to inform the Council of each proposal to employ or dismiss a Senior Employee.

- 5.3. The Senior Employees of the City are designated as:
- Director, Planning and Development Services;
 - Director, Community and Commercial Services;
 - Director, Engineering and Works Services; and
 - Director, Finance and Corporate Services
- 5.4. The Council has determined that those appointed as a Senior Employee are suitably qualified to perform the role of Acting Chief Executive Officer.
- 5.5. Council recognises that the appointment of Senior Employees to the role of Acting Chief Executive Officer is an effective succession planning strategy, providing Senior Employees with valuable exposure to and experience in the functions of a Chief Executive Officer.
- 5.6. Senior Employees will be appointed to the role of Acting Chief Executive Officer at the discretion of the Chief Executive Officer subject to performance and dependent on availability and operational requirements.
- 5.7. Appointment of a Senior Employee to the role of Acting Chief Executive Officer will be determined by Council resolution:
- for any periods exceeding six continuous weeks; or
 - in the event that the Chief Executive Officer is incapacitated or otherwise unable to make an appointment under paragraph 5.6.

6. RELATED DOCUMENTATION / LEGISLATION

6.1. *Local Government Act 1995*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	24 April 2019	Resolution #	C1904/075
Previous Adoption	DATE	13 June 2018	Resolution #	C1806/114



Council Policy

Council Policy Name: Designation of Senior Employees and Acting CEO

Responsible Directorate:

Finance and Corporate Services

Version: ~~Adopted~~Proposed

1. PURPOSE

~~1.1.~~—The purpose of this Policy is to designate Senior Employees in accordance with Section 5.37(1) of the *Local Government Act 1995* ~~and~~:-

~~1.2.1.1.~~ ~~The purpose of this Policy is to~~ provide for the appointment of a Senior Employee as Acting Chief Executive Officer during periods of Leave by the Chief Executive Officer or by Council, such that the continuous and efficient execution of the City's functions is maintained.

2. SCOPE

2.1. This Policy is applicable to the role of Chief Executive Officer of the City of Busselton and those employees designated as Senior Employees.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
City	City of Busselton
Council	the Council of the City of Busselton
Leave	annual or personal leave for periods of up to six continuous weeks
Policy	this City of Busselton Council policy titled "Designation of Senior Employees and Acting CEO"

4. STRATEGIC CONTEXT

4.1. This Policy links to Strategic Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priorities:

- a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making; and
- b. 4.4 Govern a professional organisation that is healthy, capable and engaged.

5. POLICY STATEMENT

5.1. In accordance with Section 5.37(1) of the Act, a local government may designate employees or persons belonging to a class of employees to be Senior Employees.

5.2. In accordance with Section 5.37(2) of the Act, the CEO is to inform the Council of each proposal to employ or dismiss a Senior Employee.

5.3. The Senior Employees of the City are designated as:

- a. Director, ~~Community Planning and Development Services; and~~
- b. Director, ~~Community and Commercial Business and Economic Development Services;~~
- c. Director, Engineering and ~~Environment; Works Services; and~~
- d. Director, ~~Corporate and Strategic Performance Finance and Corporate Services~~

5.4. The Council has determined that those appointed as a Senior Employee are suitably qualified to perform the role of Acting Chief Executive Officer.

5.5. Council recognises that the appointment of Senior Employees to the role of Acting Chief Executive Officer is an effective succession planning strategy, providing Senior Employees with valuable exposure to and experience in the functions of a Chief Executive Officer.

5.6. Senior Employees will be appointed to the role of Acting Chief Executive Officer at the discretion of the Chief Executive Officer subject to performance and dependent on availability and operational requirements.

5.7. Appointment of a Senior Employee to the role of Acting Chief Executive Officer will be determined by Council resolution:

- a. for any periods exceeding six continuous weeks; or
- b. in the event that the Chief Executive Officer is incapacitated or otherwise unable to make an appointment under paragraph 5.6.

6. RELATED DOCUMENTATION / LEGISLATION

6.1. *Local Government Act 1995*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	24 April 2019	Resolution #	C1904/075
Previous Adoption	DATE	24 April 2019 13 June 2018	Resolution #	C1904/075C1806/114

6.7 REVIEW OF COUNCIL POLICY 'CLOSED CIRCUIT TELEVISION SYSTEMS'

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Finance and Corporate Services
Reporting Officer:	Manager Information Services - Tim Allingham
Authorised By:	Acting Director Finance and Corporate Services - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> 1. Proposed Council Policy Closed Circuit Television Systems [6.7.1 - 2 pages] 2. Current Council Policy Closed Circuit Television Systems [6.7.2 - 2 pages] 3. Track Changes Version [6.7.3 - 2 pages]

COMMITTEE RECOMMENDATION

PL2307/503 Moved Cr Phill Cronin, seconded Cr Grant Henley

That the Council adopts the amended Council policy: Closed Circuit Television Systems (the Policy) (Attachment 1) to replace the current policy (Attachment 2).

CARRIED 5 / 0

OFFICER RECOMMENDATION

That the Council adopts the amended Council policy: Closed Circuit Television Systems (the Policy) (Attachment 1) to replace the current policy (Attachment 2).

EXECUTIVE SUMMARY

This report presents an amended Council policy: Closed Circuit Television Systems (the Policy) (Attachment 1). The Policy has been reviewed as part of the City's ongoing policy review cycle. Officers recommend it replace the current policy (Attachment 2).

STRATEGIC CONTEXT

The City's use of CCTV footage helps to facilitate a safe community and to the protection of City assets. Regular review of City policies reflects good governance.

BACKGROUND

It is the function of the Policy and Legislation Committee to consider new and review existing Council policies. The City's Policy Framework sets out an ongoing cycle of policy review, with the aim of determining the ongoing strategic importance and applicability of Council policies.

A policy in relation to Closed Circuit Television Systems was first implemented in October 2013, with a further review in June 2018.

OFFICER COMMENT

The Policy has been reviewed and is considered of ongoing relevance and strategic importance.

It has been updated with wording simplifications, and the following:

- Moved the clarification as to why the City uses CCTV systems from the scope section to the policy statement section.

The reason why the City uses CCTV is not relevant to the scope of the policy, however this information is important to the overall meaning of the policy and therefore needs to be included.

- Removed the categorisation of locations.

Categorisation of the locations of CCTV cameras is not used operationally.

The Surveillance Devices Act 1998, referenced in section 6, specifies that CCTV cameras may not be used to record private activities. All the City's CCTV cameras are located in public areas or City staff areas. This complies with this act.

6.Regulation of use, installation and maintenance of optical surveillance devices

(1)Subject to subsections (2) and (3), a person shall not install, use, or maintain, or cause to be installed, used, or maintained, an optical surveillance device —

- (a)to record visually or observe a private activity to which that person is not a party; or
(b)to record visually a private activity to which that person is a party.

- The City's CCTV systems will be added to Cam-Map WA (operated by the WA Police Force).

This system provides the local Police with an overview of the locations of all registered CCTV cameras to help them gather evidence and solve crimes. It does not provide access to any footage on the CCTV cameras or systems themselves.

The information on Cam-Map WA is not available to the public.

- Clarification that, in addition to footage being available to the Police, the CEO can authorise the release of footage.

There may be instances where the release of CCTV footage may be appropriate even though the Police have not requested it. In these cases, the CEO may authorise the release.

- Recorded data will be managed according to the City's Recordkeeping Plan and State Records Act.

Retention of footage of incidents (100.2) is to be retained for 7 years (and then it becomes eligible for destruction).

Retention of normal footage (100.5) is required for 31 days – our systems currently provide around 45 days.

Statutory Environment

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

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plan or policy:

Plan:

Community Development Plan 2022-2027

Policy:

[Closed Circuit Television Systems](#)

Financial Implications

Not Applicable

External Stakeholder Consultation

Not Applicable

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place.

No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Choose not to adopt the amended Policy, or
2. Adopt the Policy with further amendments.

CONCLUSION

Officers are recommending the adoption of the amended Council policy: Closed Circuit Television Systems, to replace the current policy of the same name.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Milestone	Completion Date
Policy taking effect	Immediately
Policy placed on City's website	Within 7 days



Council Policy

Council Policy Name: Closed Circuit Television Systems

Responsible Directorate: Finance and Corporate Services

Version: Adopted

1. PURPOSE

- 1.1. The purpose of this Policy is to establish the use of Closed-Circuit Television (CCTV) Systems and protocols for the management of recorded data.

2. SCOPE

- 2.1. This Policy is applicable to all CCTV Systems owned, managed or controlled by the City of Busselton

3. DEFINITIONS

Term	Meaning
CCTV System	is a system that comprises of CCTV cameras, information store, connections and applications for storage, retrieval and viewing of information
Policy	this City of Busselton Council policy titled "Closed Circuit Television Systems"

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 2. – LIFESTYLE – A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priority:
- a. 2.12: Provide well maintained community assets through robust asset management practices.

5. POLICY STATEMENT

- 5.1. The City uses CCTV Systems for the purpose of surveillance, protection and deterrence, and to assist in the management and protection of the City's assets.
- 5.2. A MOU between the City of Busselton and WA Police is to establish the principles, protocols, roles and responsibilities regarding the access to viewing, release and copying of recorded footage and still photographs.
- 5.3. The release or viewing of recorded footage and still photographs to the WA Police is permitted subject to the terms and conditions contained within the MOU between the City and the WA Police.
- 5.4. The City's CCTV systems will be registered on Cam-Map WA (operated by the WA Police Force).
- 5.5. Recorded data will be managed according to the City's Recordkeeping Plan and State Records Act.
- 5.6. Unless specifically required under law or otherwise authorised by the CEO, the release of recorded footage and still photographs, other than to the WA Police, is expressly prohibited.
- 5.7. The Chief Executive Officer is to establish Operational Practices that ensure CCTV is operated effectively and in line with statutory requirements.
- 5.8. Recorded data will be managed according to the City's Recordkeeping Plan and State Records Act.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Surveillance Devices Act 1998*
- 6.2. *State Records Act 2000*
- 6.3. MOU

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	13 June 2018	Resolution #	C1806/112



Council Policy

Council Policy Name: Closed Circuit Television Systems

Responsible Directorate: Finance and Corporate Services

Version: Adopted

1. PURPOSE

- 1.1. CCTV Systems are installed to assist in the management and protection of the City's assets.
- 1.2. The purpose of this Policy is to establish functional categorisation of CCTV Systems and protocols for the management of recorded data.

2. SCOPE

- 2.1. This Policy is applicable to all CCTV systems owned, managed or controlled by the City of Busselton for the purpose of surveillance, protection and deterrence.

3. DEFINITIONS

Term	Meaning
CCTV	Closed Circuit Television
CCTV System	is a system that comprises of CCTV cameras, information store, connections and applications for storage, retrieval and viewing of information
Policy	this City of Busselton Council policy titled "Closed Circuit Television Systems"
Public Area	includes— (a) any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property; and (b) local government property; but does not include premises
MOU	Memorandum of Understanding between the Minister of Police and the City of Busselton dated 10 May 2016 and as amended from time to time

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 2. – LIFESTYLE – A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priority:
 - a. 2.12: Provide well maintained community assets through robust asset management practices.

5. POLICY STATEMENT

- 5.1. There are five categories of CCTV cameras:
- Public Area permanent (Fixed);
 - Public Area portable (Temporary);
 - Vehicle-based (Mobile)
 - Buildings and Assets Permanent (Fixed)
 - Service/Staff Areas Permanent (Fixed)
- 5.2. A MOU between the City of Busselton and WA Police is to establish the principles, protocols, roles and responsibilities regarding the access to viewing, release and copying of recorded footage and still photographs.
- 5.3. The release or viewing of recorded footage and still photographs to the WA Police is permitted subject to the terms and conditions contained within the MOU between the City and the WA Police.
- 5.4. Unless specifically required under law, the release or viewing of recorded footage and still photographs other than to the WA Police is expressly prohibited.
- 5.5. The Chief Executive Officer is to establish Staff Management Practices and Operating Procedures that ensure CCTV is operated effectively in line with statutory requirements.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Surveillance Devices Act 1998*
 6.2. *State Records Act 2000*
 6.3. MOU

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	13 June 2018	Resolution #	C1806/112
Previous Adoption	DATE	9 October 2013	Resolution #	C1310/261



Council Policy

Council Policy Name: Closed Circuit Television Systems

Responsible Directorate: Finance and Corporate Services

Version: Adopted

1. PURPOSE

- 1.1. The purpose of this Policy is to establish ~~the functional use categorisation~~ of Closed-Circuit Television (CCTV) Systems and protocols for the management of recorded data.

2. SCOPE

- ~~2.1.~~ This Policy is applicable to all CCTV ~~S~~ystems owned, managed or controlled by the City of Busselton ~~for the purpose of surveillance, protection and deterrence, and to assist in the management and protection of the City's assets.~~

~~2.2.2.1.~~

3. DEFINITIONS

Term	Meaning
CCTV	Closed Circuit Television
CCTV System	is a system that comprises of CCTV cameras, information store, connections and applications for storage, retrieval and viewing of information
Policy	this City of Busselton Council policy titled "Closed Circuit Television Systems"
Public Area	includes— (a) any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property; and (b) local government property; but does not include premises
MOU	Memorandum of Understanding between the Minister of Police and the City of Busselton dated 10 May 2016 and as amended from time to time

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 2. – LIFESTYLE – A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priority:
- a. 2.12: Provide well maintained community assets through robust asset management practices.

5. POLICY STATEMENT

5.1. The City uses CCTV Systems for the purpose of surveillance, protection and deterrence, and to assist in the management and protection of the City's assets.

5.1. There are five categories of CCTV cameras:

- a. Public Area permanent (Fixed);
- b. Public Area portable (Temporary);
- c. Vehicle-based (Mobile)
- d. Buildings and Assets Permanent (Fixed)
- e. Service/Staff Areas Permanent (Fixed)

5.2. A MOU between the City of Busselton and WA Police is to establish the principles, protocols, roles and responsibilities regarding the access to viewing, release and copying of recorded footage and still photographs.

5.3. The release or viewing of recorded footage and still photographs to the WA Police is permitted subject to the terms and conditions contained within the MOU between the City and the WA Police.

5.4. The City's CCTV systems will be registered on Cam-Map WA (operated by the WA Police Force).

5.5. Recorded data will be managed according to the City's Recordkeeping Plan and State Records Act.

5.6. Unless specifically required under law or otherwise authorised by the CEO, the release or viewing of recorded footage and still photographs, other than to the WA Police, is expressly prohibited.

5.7. The Chief Executive Officer is to establish Staff Management Practices and Operating Procedures Operational Practices that ensure CCTV is operated effectively and in line with statutory requirements.

5.7.5.8. Recor
ded data will be managed according to the City's Recordkeeping Plan and State Records Act.

6. RELATED DOCUMENTATION / LEGISLATION

6.1. *Surveillance Devices Act 1998*

6.2. *State Records Act 2000*

6.3. MOU

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	<u>13 June 2018</u>	Resolution #	<u>C1806/112</u>
Previous Adoption	DATE	<u>13 June 2018</u> <u>October 2013</u>	Resolution #	<u>C1806/112C1310/261</u>

7 CONFIDENTIAL MATTERS

Nil

8 NEXT MEETING DATE

Wednesday 13 September 2023

9 CLOSURE

The meeting was closed at 11:37am.

The minutes of the Policy and Legislation Committee Meeting held 26 July 2023 were confirmed as a true and correct record on:

Date: 13 September 2023

Presiding Member:

