

# **Policy and Legislation Committee Agenda**

13 August 2019

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

city@busselton.wa.gov.au

#### **CITY OF BUSSELTON**

## MEETING NOTICE AND AGENDA – 13 AUGUST 2019

## TO: THE MAYOR AND COUNCILLORS

**NOTICE** is given that a meeting of the Policy and Legislation Committee will be held in the the Committee Room, Administration Building, Southern Drive, Busselton on Tuesday, 13 August 2019, commencing at 2.00pm.

The attendance of Committee Members is respectfully requested.

## **DISCLAIMER**

Statements or decisions made at Council meetings or briefings should not be relied on (or acted upon) by an applicant or any other person or entity until subsequent written notification has been given by or received from the City of Busselton. Without derogating from the generality of the above, approval of planning applications and building permits and acceptance of tenders and quotations will only become effective once written notice to that effect has been given to relevant parties. The City of Busselton expressly disclaims any liability for any loss arising from any person or body relying on any statement or decision made during a Council meeting or briefing.

MIKE ARCHER

**CHIEF EXECUTIVE OFFICER** 

8 August 2019

## **CITY OF BUSSELTON**

## AGENDA FOR THE POLICY AND LEGISLATION COMMITTEE MEETING TO BE HELD ON 13 AUGUST 2019

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- 1. <u>DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS</u>
- 2. <u>ATTENDANCE</u>

**Apologies** 

- 3. PUBLIC QUESTION TIME
- 4. <u>DISCLOSURE OF INTERESTS</u>
- 5. **CONFIRMATION AND RECEIPT OF MINUTES**
- 5.1 <u>Minutes of the Policy and Legislation Committee Meeting held 11 June 2019</u>

## **RECOMMENDATION**

That the Minutes of the Policy and Legislation Committee Meeting held 11 June 2019 be confirmed as a true and correct record.

#### 6. REPORTS

## 6.1 PROPOSED COUNCIL POLICY - PREVENTION OF MISCONDUCT, FRAUD AND CORRUPTION

**STRATEGIC GOAL** 6. LEADERSHIP Visionary, collaborative, accountable

**STRATEGIC OBJECTIVE** 6.1 Governance systems, process and practices are responsible,

ethical and transparent.

SUBJECT INDEX Council Policy

**BUSINESS UNIT:** Governance Services

**REPORTING OFFICER:** Governance Coordinator - Emma Heys

**AUTHORISING OFFICER:** Director Finance and Corporate Services - Tony Nottle

PRIMARY NATURE OF Executive: substantial direction setting, including adopting strategies,

**DECISION** plans and policies (excluding local planning policies), tenders, setting

and amending budgets, funding, donations and sponsorships,

reviewing committee recommendations

**VOTING REQUIREMENT:** Simple Majority

ATTACHMENTS: Attachment A Proposed Council Policy 🖫

#### OFFICER RECOMMENDATION

That the Council adopt the proposed Council policy 'Prevention of Misconduct, Fraud and Corruption' as included at Attachment A.

#### **EXECUTIVE SUMMARY**

This report presents a proposed new Council policy – 'Prevention of Misconduct, Fraud and Corruption' (the Policy, Attachment A) for Council endorsement. The Policy seeks to communicate the City's commitment to a zero tolerance approach to misconduct, fraud and corruption.

The Policy also seeks to progress a recommendation from the misconduct prevention section of the Governance Systems Review (GSR) conducted by Mr John Woodhouse in August 2017.

### **BACKGROUND**

In August 2017 the CEO commissioned a high level independent review of the City's governance systems – the Governance Systems Review (GSR). The GSR made specific recommendations in the area of Misconduct Prevention, with the development of a high level misconduct prevention strategy considered important. This is a significant body of work to be undertaken and the City hopes to progress this over the next twelve months.

The GSR made a specific recommendation that:

...(6) A review should be conducted of the existing Public Interest Disclosure Policy.

In response to this recommendation, officers presented a proposed Council policy 'Public Interest Disclosure (PID)' to the Policy and Legislation Committee in June 2019.

While acknowledging the future progression of a Misconduct Strategy, the Committee requested that the proposed PID policy be deferred and further reviewed in terms of content and approach. The Committee felt that the City, through its existing PID guidelines, already complied with provisions of the Public Interest Disclosure Act 2003 in a transparent and effective manner, and that a Council policy should complement these guidelines and existing legislation, without seeking to replicate or potentially inadvertently dilute them in any way.

#### **OFFICER COMMENT**

Upon reflection, officers feel that the proposed PID policy was too narrow in its focus and that a broader misconduct prevention policy which communicated the City's commitments and approach in respect to this topic would complement the current PID guidelines and more actively progress the recommendations of the GSR.

While no statutory requirement exists for the City to have a misconduct prevention policy, it was identified in the GSR that the City would benefit from the development and implementation of a misconduct strategy. The development of such a strategy will require a significant amount of resourcing. This will be planned for over the next twelve months.

In the interim officers have prepared a policy that communicates the City's commitment to maintaining high standards of professional and ethical conduct by supporting the development of strategies to prevent, detect and respond to misconduct, fraud and corruption. The Policy includes the City's obligations to the provisions of the Public Interest Disclosures Act 2003.

#### **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 pieces of legislation contain provisions with respect to the prevention, and reporting, of misconduct, fraud and corruption. These include, but are not limited to:

- Local Government Act 1995;
- Local Government (Rules of Conduct) Regulations 2007;
- Local Government (Administration) Regulations 1996;
- Corruption, Crime and Misconduct Act 2003; and
- Public Interests Disclosures Act 2003.

#### **Relevant Plans and Policies**

The City has a policy framework (the Framework) which was developed and endorsed by Council in response to the recommendations of the GSR. The Framework sets out the intent of Council policies, as opposed to operational practice documents.

Guidelines which provide information to members of the public in relation to making Public Interests of Disclosure are available on the City's website.

## **Financial Implications**

Adoption of the Policy has no budget implications, noting that development of a more comprehensive misconduct prevention strategy will require resourcing in the form of officer and council time.

## **Stakeholder Consultation**

No external stakeholder consultation was required or undertaken in relation to this matter

#### 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.

There are no risks identified of a medium or greater level associated with the officer recommendation, with the Policy seeking to clearly articulate Council's strategic direction in relation to the management of misconduct, fraud and corruption, and establishing the framework for development of a comprehensive strategy in the future.

## **Options**

As an alternative to the proposed recommendation the Council could consider making amendments to the Policy or choose to not endorse the Policy.

#### **CONCLUSION**

While acknowledging and working towards the completion of the recommendations made in the GSR, officers have developed the Policy, seeking to communicate the City's commitment to the prevention of misconduct, fraud and corruption and to establish the framework in which a comprehensive strategy may be developed in the future.

## TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will become effectively immediately upon endorsement by Council.

13 August 2019

**Proposed Council Policy** 



#### 1. PURPOSE

- 1.1. The purpose of this Policy is to communicate the City's commitment to a zero tolerance approach to misconduct, fraud and corruption.
- 1.2. This Policy also establishes the City's commitment to maintaining high standards of professional and ethical conduct by supporting strategies that prevent, detect and respond to misconduct, fraud and corruption.

## 2. SCOPE

2.1. This Policy is applicable to the City of Busselton and its Elected Members and employees.

## 3. DEFINITIONS

Term	Meaning
Fraud	Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property and where deception is used immediately before or immediately following the activity.
Corruption	Dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity.
Minor Misconduct	Minor misconduct occurs if a public officer engages in conduct that:  (a) Adversely affects the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or  (b) Involves the performance of functions in a manner that is not honest or impartial; or  (c) Involves a breach of the trust placed in the public officer; or  (d) Involves the misuse of information or material that is in connection with their functions as a public officer or the benefit or determent of another person; and constitutes, or could constitute, a disciplinary offence providing reasonable grounds for termination of a person's office or employment.
PID Act	The Public Interest Disclosure Act 2003.
Policy	this City of Busselton Council policy entitled "Prevention of Misconduct, Fraud and Corruption".
Serious Misconduct	Series misconduct occurs when:  (a) A public officer corruptly acts or corruptly fails to act in the performance of the functions of the public officers officer or employment; or  (b) A public officer corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit or himself or herself or for another person or to cause a detriment to any person; or

#### 6.1 Attachment A

#### **Proposed Council Policy**

(c) A public officer whilst acting or purporting to act in his or her official capacity,
commits an offence punishable by two or more years imprisonment.

#### 4. STRATEGIC CONTEXT

 a. This Policy links to Key Goal Area 6 – Leadership: of the City's Strategic Community Plan 2017 and specifically Community Objective 6.1: Governance systems, process and practices are responsible, ethical and transparent.

#### 5. POLICY STATEMENT

- 5.1. The City is committed to providing and promoting ethical and accountable leadership and decision making.
- 5.2. The City's approach to misconduct prevention draws from the resources and information provided by:
  - a. Western Australian Corruption and Crime Commission;
  - b. Western Australian Public Sector Commission;
  - c. Standards Australia AS8001-2008
  - d. Office of the Auditor General
- 5.3. The City is committed to providing all Elected Members and employees with education and training in misconduct prevention policies and strategies as they are developed, to ensure that responsibilities and obligations are understood.
- 5.4. This Policy, the City's Codes of Conduct, organisational values, and risk management framework, all work together to prevent, detect and respond to potential or actual misconduct, fraud and corruption.
- 5.5. Elected Members and employees are expected to demonstrate a commitment to preventing and detecting misconduct, fraud and corruption.
- 5.6. Elected Members and employees are obliged to report suspected misconduct, fraudulent and/or corrupt activities, through the appropriate channels.
- 5.7. In dealing with allegations of suspected misconduct, fraudulent and/or corrupt activities, the City is committed to dealing with such allegations, through the appropriate channels, including notifying, reporting and referring any instances of Minor Misconduct or Serious Misconduct to the Public Sector Commission, the Corruption and Crime Commission and/or the Western Australian Police as appropriate.
- 5.8. The City may seek to recover any losses incurred from misconduct, fraud or corruption activities, after considering all relevant issues.

#### **Public Interest Disclosure**

- 5.9. The City is committed to the aims and objectives of the *Public Interest Discloser Act* 2003.
- 5.10. The City will maintain high standards of professional and ethical conduct by receiving disclosures of public interest information in accordance with the requirements and provisions of the *Public Interest Disclosures Act 2003*.

## 6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. Local Government Act 1995
- 6.2. Local Government (Rules of Conduct) Regulations 2007

#### 6.1 Attachment A

- **Proposed Council Policy**
- 6.3. Local Government (Administration) Regulations 19966.4. Public Interest Disclosure Act 2003
- 6.5. City of Busselton's Guide to Public Interest Disclosure

## 7. REVIEW DETAILS

Review Frequency		3 yearly		
Council	DATE		Resolution #	
Adoption				

## 6.2 ANNUAL STATUTORY REVIEW OF DELEGATIONS

**STRATEGIC GOAL**6. LEADERSHIP Visionary, collaborative, accountable **STRATEGIC OBJECTIVE**6.1 Governance systems, process and practices are responsible,

ethical and transparent.

**SUBJECT INDEX** Authorised Delegation of Power/Authority

**BUSINESS UNIT:** Governance Services

**REPORTING OFFICER:** Governance Coordinator - Emma Heys

**AUTHORISING OFFICER:** Director Finance and Corporate Services - Tony Nottle

PRIMARY NATURE OF Legislative: to adopt legislative documents e.g. local laws, local

**DECISION** planning schemes, local planning policies

**VOTING REQUIREMENT:** Absolute Majority

ATTACHMENTS: Attachment A DA 1 - 01 Issuing Notices

Attachment B DA 1 - 03 Power to Remove and Impound

Attachment C DA 1 - 05 Closure of Thoroughfares U

Attachment D DA 1 - 07 Inviting, Rejecting and Accepting Tenders U

Adebe

Attachment E DA 1 - 08 Preliminary Selection of Tenderers DA 1 - 09 Airport Redevelopment Project - Inviting,

Attachment G DA 1 - 10 Panels of Pre-Qualified Suppliers. Attachment H DA 1 - 11 Amendments to the Consolidated Parking

Scheme !! \*\*

Attachment I DA 1 - 20 Administer Local Laws ↓ ☐
Attachment J DA 1 - 21 Acquisition of Property ↓ ☐
Attachment K DA 1 - 22 Disposition of Property ↓ ☐
Attachment L DA 1 - 24 Affixing of the Common Seal ↓ ☐

Attachment M DA 2 - 01 The Powers and Duties of the Local Government pursuant to the Building Act 2011.

Attachment N DA 3 - 01 The Powers and Duties of the Local

Government pursuant to the Bush Fires Act 1954 🗓 🖺

Attachment O DA 3 - 02 Appointment of Bush Fire Control Officers

Adebe

Attachment P DA 4 - 01 The Powers and Duties of the Local

Government pursuant to the Cat Act 2011 🗓 🖺

Attachment Q DA 5 - 01 The Powers and Duties of the Local Government pursuant to the Dog Act 1976.

Attachment R DA 6 - 01 The Powers and Duties of the Local

Government pursuant to the Graffiti Vandalism Act

2016 🗓 🛗

Attachment S DA 8 - 01 Certificate of Approval pursuant to the

Strata Titles Act 1985 🗓

Attachment T Current Delegations (proposed to be amended) Usual Common Table 2015 

Label 1 

Label 2 

Label 2 

Label 3 

Label 2 

Label 3 

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Label 4 

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Label 5 

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Label 5 

Label 6 

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## **OFFICER RECOMMENDATION**

## **That the Council**

1. Adopt the amendments to the following delegations as outlined below and included in Attachments A through to S:

Current	New		
Local Government Act 1995			
LG3D	DA1 - 01	Changes	Attachment
Notices Requiring Certain	<b>Issuing Notices</b>	Title of delegation	Α

Things to be Done by Owner or Occupier of Land and Additional Powers When Notice is Given			
LG3F Power to Remove and Impound Abandoned Vehicle Wrecks may be taken	DA1 – 03 Power to Remove and Impound	Changes Title of delegation	Attachment B
LG3H Closing of Certain Thoroughfares to Vehicles and Partial Closure of Thoroughfare for Repairs or Maintenance	DA1 – 05 Closure of Thoroughfares	Changes Title of delegation	Attachment C
LG3J Inviting Tenders and Rejecting and Accepting Tenders	DA1 – 07 Inviting, Rejecting and Accepting Tenders	Changes Title of delegation	Attachment D
LG3K Preliminary Selection of Tenderers	DA1 – 08 Preliminary Selection of Tenderers	Changes Removal of description of regulations from Delegation reference	Attachment E
LG3L Airport Redevelopment Project - Inviting Tenders and Rejecting and Accepting Tenders	DA1 – 09 Airport Redevelopment Project – Inviting, Rejecting and Accepting Tenders	Changes Title of delegation Addition of Local Government Act 1995 references	Attachment F
LG3M Establishment of Panels of Pre- Qualified Suppliers	DA1 – 10 Panels of Pre- Qualified Suppliers	Changes Title of delegation Corrected the Local Government Act 1995 Reference	Attachment G
LG3N Amendments to the Consolidated Parking Scheme	DA1 – 11 Amendments to the Consolidated Parking Scheme	Changes Corrected the Local Law reference	Attachment H
LG3A Executive Function – Determining Applications Under Local Laws and Enforcement of Local Law Provisions	DA1 – 20 Administer Local Laws	Changes Title of delegation Improved wording to clarify the delegation	Attachment I

LG3B Acquisition of Property	DA1 – 21 Acquisition of Property	Changes Corrected reference to power/duty being delegated Rewording of condition for clarity	Attachment J
LG3C Disposing of Property	DA1 – 22 Disposition of Property	Changes Title of delegation Addition of reference to Regulations	Attachment K
LG9B Authorising the Affixing of the Common Seal to Documents	DA1 – 24 Affixing of the Common Seal	Changes Title of delegation Remove list of document categories (see further detail in officer comment)	Attachment L
Building Act 2011			
BA1 Powers of the Local Government pursuant to the Building Act 2011	DA2 – 01 Powers of the Local Government pursuant to the Building Act 2011	Changes Minor wording corrections	Attachment M
Bush Fires Act 1954			
BF1 The performance of any of the functions of the local government under the Act	DA3 – 01 Powers and Duties of the Local Government pursuant to the Bush Fires Act 1954	Changes Title of delegation Improved wording to clarify the delegation	Attachment N
BF2 Appointment of Bush Fire Control Officers	DA3 – 02 Appointment of Bush Fire Control Officers	Changes Addition of relevant policies	Attachment O
Cat Act 2011			
CA1 The Powers and Duties of the Cat Act 2011	DA4 – 01 The Powers and Duties of a Local Government pursuant to the Cat Act 2011	Changes Title of delegation Improved wording to clarify the delegation	Attachment P
Dog Act 1976			
DA1 The powers and duties of the Dog Act 1976 including the authority to further delegate	DA5 – 01 The Powers and Duties of a Local Government	Changes Title of delegation Improved wording to clarify the delegation	Attachment Q

	pursuant to the	Addition of relevant	
	Dog Act 1976	policies	
Other Acts included in the review			
GV1	DA6 - 01	Changes	Attachment
Exercise any of the local	The Powers and	Title of delegation	R
government's powers or	<b>Duties of a Local</b>	Improved wording to	
discharge any of its duties	Government	clarify the delegation	
under Part 3 of the Graffiti	pursuant to the		
Vandalism Act 2016	<b>Graffiti Vandalism</b>		
	Act 2016		
		T	
STA1	DA8 - 01	Changes	Attachment
Certificate of Approval	Certificate of	Title of delegation	S
	Approval pursuant		
	to the Strata Titles		
	Act 1985		

- 2. Remove delegation LG10A 'Claims against the local government'; and
- 3. Authorise, under Section 9.49A (4) of the Act, the Chief Executive Officer to sign documents that are necessary or appropriate to enable a CEO to carry out their functions under any written law.

#### **EXECUTIVE SUMMARY**

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

#### **BACKGROUND**

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 the day to day decisions of Council to be made by the Chief Executive Officer, who in turn can delegate to other staff were appropriate, without requiring Council to make all decisions through the process of an ordinary council meeting.

Section 5.46(2) of the Act requires all delegations by Council to the CEO to be reviewed at least once each financial year. A review has been completed of the City's delegations and this report details the outcomes of that review. In addition, a new Authority of Delegation register has been developed providing for a clearer, more user friendly and modern register.

### **OFFICER COMMENT**

With the exception of all delegations being transferred into a new format, the majority of existing delegations are proposed to be amended only slightly for consistency and clarity. A smaller number have been identified as requiring more significant amendment to improve operational efficiencies and or to amend references.

In addition, opportunities were identified to improve the Authority of Delegations Register and a new register has been developed, providing the opportunity to apply consistency to the content and

format of the delegations, making the register more user friendly and understandable. Title changes have been made to some delegations to more aptly describe the information that they contain. With the transfer to a new register, all delegations have been allocated new reference numbers. The new referencing is structured by legislation e.g. DA1 - ## for the *Local Government Act 1995*, DA2 – ## the *Building Act 2011* and so on. The previous delegation numbers have been retained as a reference to assist Councillors and officers in obtaining historical information.

In most instances, the explanatory notes from the current delegations have been removed and the function description has been limited to only the relevant section of the Act and the heading of that section. This has been done to provide officers with the opportunity to seek out and interpret the relevant sections of the Act themselves, noting hyperlinks will be provided within the final register to facilitate this. In addition, by not duplicating or paraphrasing the legislation within the delegation itself, errors in the transfer of information will be avoided and information will remain current. Linkages to relevant sections of acts, plans and policies ensure supporting documentation are easily referenced.

While this review is in relation to Authority of Delegations from Council to the CEO only, the new register will include linked delegations from the CEO to officers, providing improved transparency of decision making. Creating this correlation, from legislation, to Council, to CEO and through to Officer, gives the delegator and the delegate a legislative reference to the power or duty granted by or to them.

This year, due to the transfer of delegations into the new register, copies of the amended delegations with tracked changes have not been included in this report. The instruments of delegation that have been amended as part of this review have been included as attachments to this report and are listed in the table below. Where no change or amendment has been proposed to a delegation (other than numbering and formatting within the register as described above), it has not been included.

The current versions of the delegations proposed to be amended have been bound and included at Attachment T for comparative purposes.

Current	New		
Local Government Act 1995			
LG3D	DA1 - 01	Changes	Attachment A
Notices Requiring Certain	Issuing Notices	Title of delegation	
Things to be Done by Owner or			
Occupier of Land and			
Additional Powers When Notice			
is Given			
LG3F	DA1 - 03	Changes	Attachment B
Power to Remove and Impound	Power to Remove	Title of delegation	
Abandoned Vehicle Wrecks	and Impound		
may be taken			
LG3H	DA1 – 05	Changes	Attachment C
Closing of Certain	Closure of	Title of delegation	
Thoroughfares to Vehicles and	Thoroughfares		
Partial Closure of Thoroughfare			
for Repairs or Maintenance			

LG3J Inviting Tenders and Rejecting and Accepting Tenders	DA1 – 07 Inviting, Rejecting and Accepting Tenders	Changes Title of delegation	Attachment D
<b>LG3K</b> Preliminary Selection of Tenderers	DA1 – 08 Preliminary Selection of Tenderers	Changes Removal of description of regulations from Delegation reference	Attachment E
LG3L Airport Redevelopment Project – Inviting Tenders and Rejecting and Accepting Tenders	DA1 – 09 Airport Redevelopment Project – Inviting, Rejecting and Accepting Tenders	Changes Title of delegation Addition of Local Government Act 1995 references	Attachment F
<b>LG3M</b> Establishment of Panels of Pre-Qualified Suppliers	DA1 – 10 Panels of Pre- Qualified Suppliers	Changes Title of delegation Corrected the Local Government Act 1995 Reference	Attachment G
LG3N Amendments to the Consolidated Parking Scheme	DA1 – 11 Amendments to the Consolidated Parking Scheme	Changes Corrected the Local Law reference	Attachment H
LG3A  Executive Function —  Determining Applications  Under Local Laws and  Enforcement of Local Law  Provisions	DA1 – 20 Administer Local Laws	Changes Title of delegation Improved wording to clarify the delegation	Attachment I
<b>LG3B</b> Acquisition of Property	DA1 – 21 Acquisition of Property	Changes Corrected reference to power/duty being delegated Rewording of condition for clarity	Attachment J
<b>LG3C</b> Disposing of Property	DA1 – 22 Disposition of Property	Changes Title of delegation Addition of reference to Regulations	Attachment K

LG9B Authorising the Affixing of the Common Seal to Documents	DA1 – 24 Affixing of the Common Seal	Changes Title of delegation Remove list of document categories (see further detail in officer comment)	Attachment L
Building Act 2011			
BA1 Powers of the Local Government pursuant to the Building Act 2011	DA2 – 01  Powers of the Local Government pursuant to the Building Act 2011	Changes Minor wording corrections	Attachment M
Bush Fires Act 1954			
BF1 The performance of any of the functions of the local government under the Act	DA3 – 01  Powers and Duties of the Local Government pursuant to the Bush Fires Act 1954	Changes Title of delegation Improved wording to clarify the delegation	Attachment N
BF2 Appointment of Bush Fire Control Officers	DA3 – 02 Appointment of Bush Fire Control Officers	Changes Addition of relevant policies	Attachment O
Cat Act 2011			
CA1 The Powers and Duties of the Cat Act 2011	DA4 – 01 The Powers and Duties of a Local Government pursuant to the Cat Act 2011	Changes Title of delegation Improved wording to clarify the delegation	Attachment P
Do :: A at 107C			
Dog Act 1976  DA1  The powers and duties of the Dog Act 1976 including the authority to further delegate	DA5 – 01 The Powers and Duties of a Local Government pursuant to the Dog Act 1976	Changes Title of delegation Improved wording to clarify the delegation Addition of relevant policies	Attachment Q
Other Acts included in the review			
GV1  Exercise any of the local government's powers or discharge any of its duties under Part 3 of the Graffiti Vandalism Act 2016	DA6 – 01 The Powers and Duties of a Local Government pursuant to the Graffiti Vandalism Act 2016	Changes Title of delegation Improved wording to clarify the delegation	Attachment R

STA1	DA8 - 01	Changes	Attachment S
Certificate of Approval	Certificate of	Title of delegation	
	Approval pursuant		
	to the Strata Titles		
	Act 1985		

#### Delegation to be removed

It is proposed to remove delegation LG10A 'Claims against the local government'. The current delegation relates to insurance claims, specifically to consider claims against the local government for damage to property to either accept or deny liability and to make payment against that claim up to a maximum amount.

Current delegation LG6A 'Payments from Municipal Fund or Trust Fund' (new reference DA1-23) allows for the CEO to make payments from the Municipal Fund or Trust Fund in accordance with Regulation 12 of the *Local Government (Financial Management) Regulations 1996,* in relation to s.6.10 of the *Local Government Act 1995*.

A payment against an insurance claim, within the City's insurance policy excess levels, constitutes a payment being made from the municipal fund and therefore is already covered by Delegation LG6A.

### <u>Planning Delegations</u>

Officers have not included a review of the planning delegation PDR1 'Development Control' in this report. The review of PDR1 'Development Control' is proposed to be undertaken with planning officers as part of a broader review of planning delegations and policies and will be presented to Council at a later time. There is no statutory requirement for this delegation to be reviewed once every financial year.

## **Execution/Signing of Documents**

In undertaking a review of the City's current delegations, a number of issues became apparent with the delegations concerning the City's affixing of the Common Seal and the execution of documents.

Currently the City has one delegation from Council to CEO, LG9B 'Authorising the Affixing of the Common Seal to Documents'. The current delegation from Council to CEO is problematic in that it narrows the types or categories of documents the CEO is authorised to affix the Common Seal to, thereby excluding a range of documents that may require the affixing of the Common Seal, resulting in a large number of document types or categories requiring a resolution of council to have the Common Seal affixed. This creates efficiency issues for the day to day operations of the City. In accordance with s.9.49A (3) of the Act, the Common Seal is required to be affixed in the presence of the Mayor and the Chief Executive Officer (or a senior employee so authorised), each of whom is to sign the document to attest that the common seal was so affixed.

Officers have proposed that this delegation be amended by removing the list of document categories and to instead provide the power for the CEO to authorise the affixing of the Common Seal to all documents that require it to be legally effective. In respect to the signing or execution of documents, separate to the Common Seal, officers recommend that Council resolve to authorise (under Section 9.49A (4) of the Act) the CEO to sign any documents that are necessary or appropriate to enable a CEO to carry out their functions under any written law. Section 9.49A (4) of the Act requires the transfer of this power in the form of an authorisation, as opposed to a delegation. This authorisation is included as part of the officer recommendation.

### **Statutory Environment**

Section 5.42 of the Act provides the Council with the ability to delegate powers and duties to its CEO. Some powers and duties cannot be delegated in accordance with Section 5.43 of the Act, such as matters that require an Absolute Majority decision of Council. Council has the right to impose condition on any delegation it grants.

Section 5.16 of the Act provides the ability for powers and duties to be delegated to Committees.

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

Section 44 of the *Cat Act 2011* provides the power for the CEO to delegate the exercise of its functions and discharge of its duties to the CEO.

Section 10AA of the *Dog Act 1976* provides Council with the ability to delegate powers and duties to the CEO.

The *Local Government Act 1995*, the *Cat Act 2011* and the *Dog Act 1976* require the review of delegations at least once every financial year.

Section 5.46 of the *Local Government Act 1995* requires that all delegations are 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**

There are no relevant plans or policies to consider in relation to this matter

#### **Financial Implications**

There are no financial implications associated with the officer recommendation.

## **Stakeholder Consultation**

A review of delegations from other comparative Local Governments was undertaken and the WALGA model delegations were also reviewed.

#### **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 may choose:

- 1. Not to accept any amendments to the delegations; or
- 2. To request further amendments are made to the delegations.

Officers can assist with the drafting of a suitable alternative motion if required.

## **CONCLUSION**

The statutory review of delegations has been completed and it is recommended that Council adopt the proposed changes to the delegations as listed in officer comment, and also authorise the CEO to sign any document necessary to enable him to carry out his functions.

## TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The amended delegations will be incorporated into the new Delegations Register immediately following adoption by Council.

6.2 Attachment A

DA 1 - 01 Issuing Notices

# THE LOCAL GOVERNMENT ACT 1995 DA 1 – 01 Issuing Notices

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.25(1), s.3.26(2), s.3.26(3)	
FUNCTION	s.3.25 Notices requiring certain things to be done by owner or occupier of land s.3.26 Additional powers when notices given	
CONDITIONS	Nil	
POLICY	Nil	
REFERENCE DOCUMENTS	Nil	

RECORD KEEPING	ECM Delegation Profile – XX  Initial Council Resolution Recent Council Resolution C1806/188  C1808/150	
VERIFICATION		
RECENT ALTERATIONS		
PREVIOUS DELEGATION REFERENCE	LG3D - Notices requiring certain things to be done by owner or occupier of land and additional powers when notice is given	

6.2 Attachment B

# DA 1 - 03 Power to Remove and Impound

## DA 1 – 03 Power to Remove and Impound

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.39, s.3.40A	
FUNCTION	s.3.39 Power to remove and impound s.3.40A Abandoned vehicle wreck may be taken	
CONDITIONS	Disposal of a declared abandoned vehicle wreck is to be undertaken in accordance with Delegation DA1 – 04 Disposing of Uncollected Goods	
POLICY	Nil	
REFERENCE DOCUMENTS	Nil	

RECORD KEEPING	ECM Quick Add Profile – XX  Initial Council Resolution C1806/188  Recent Council Resolution C1812/264	
VERIFICATION		
RECENT ALTERATIONS	December 2018	
PREVIOUS DELEGATION REFERENCE	LG3F – Power to Remove and Impound; Abandoned Vehicle Wrecks may be taken	

6.2 Attachment C

# DA 1 - 05 Closure of Thoroughfares

## DA 1 – 05 Closure of Thoroughfares

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.50(1), s.3.50(1a), s.3.50(4), s.3.50(6), s.3.50A	
FUNCTION	s.3.50 Closing certain thoroughfares to vehicles s.3.50A Partial closure of thoroughfare for repairs or maintenance	
CONDITIONS	Nil	
POLICY	Nil	
REFERENCE DOCUMENTS	Nil	

RECORD KEEPING	ECM Quick Add Profile – XX	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C0806/188		
RECENT ALTERATIONS	Nil		
PREVIOUS DELEGATION REFERENCE		LG3H – Closing of Certain Thoroughfares to Vehicles and Partial Closure of Thoroughfare for Repairs or Maintenance	

6.2 Attachment D

# DA 1 - 07 Inviting, Rejecting and Accepting Tenders

## DA 1 – 07 Inviting, Rejecting and Accepting Tenders

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.57 Local Government (Functions and General) Regulations 1996 Regulations 11, 13, 14, 18, 20, 21A	
FUNCTION	s.3.57 Tenders for providing goods or services Regulation 11 When tenders have to be publicly invited Regulation 13 Requirements when local government invites tenders not required to do so Regulation 14. Regulation 18 Rejecting and accepting tenders Regulation 20 Variation of requirements before entry into contract Varying a contract for the supply of goods or services	
CONDITIONS	This delegation is subject to:  (a) Complying with the requirements of the City of Busselton's Purchasing Policy as it relates to tendering;  (b) Following any applicable staff management practices and operational procedures; and  (c) Not accepting any tender or entering into any contract having a value exceeding \$500,000	
POLICY	Purchasing (ECM 2635850)	
REFERENCE DOCUMENTS	Tender Register	

RECORD KEEPING	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1103/179	Recent Council Resolution C1807/144
RECENT ALTERATIONS	June 2018	
PREVIOUS DELEGATION REFERENCE	LG3J – Inviting Tenders and Rejecting and Accepting Tenders	

6.2 Attachment E

## DA 1 - 08 Preliminary Selection of Tenderers

## DA 1 – 08 Preliminary Selection of Tenderers

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government (Functions and General) Regulations 1996 Regulations 21(1), 23(3)	
FUNCTION	Regulation 21 Limiting who can tender, procedure for Regulation 23 Rejecting and accepting expressions of interest to be acceptable tenderer	
CONDITIONS	Nil	
POLICY	Purchasing (ECM 2635850)	
REFERENCE DOCUMENTS	Nil	

RECORD KEEPING	ECM Quick Add Profile – XX	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1606/139		
RECENT ALTERATIONS	June 2018		
PREVIOUS DELEGATION REFERENCE	LG3K – Preliminary Selection of	LG3K – Preliminary Selection of Tenderers	

6.2 Attachment F

DA 1 - 09 Airport Redevelopment Project - Inviting, Rejecting and Accepting Tenders

## DA 1 – 09 Airport Redevelopment Project – Inviting, Rejecting and Accepting Tenders

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.57 Local Government (Functions and General) Regulations 1996 Regulation 11, 13, 14, 18, 20, 21A	
FUNCTION	s.3.57 Tenders for providing goods or services Regulation 11 When tenders have to be publicly invited Regulation 13 Requirements when local government invites tenders though not required to do so Regulation 14 Regulation 18 Rejecting and accepting tenders Regulation 20 Variation of requirements before entry into contract Regulation 21A Varying a contract for the supply of goods or services	
CONDITIONS	This delegation is subject to:  (a) Complying with the requirements of the City of Busselton's Purchasing Policy as it relates to tendering;  (b) Following any applicable operational practices and operational procedures;  (c) Acceptance of a tender is not to exceed a contract value of \$1,000,000;  (d) Any contract variation is not to exceed 10% of the contract value; and  (e) The delegation to accept a tender can only be exercised with agreement from the Chief Executive Officer of the South West Development Commission.	
POLICY	Purchasing (ECM 2635850)	
REFERENCE DOCUMENTS	Nil	

RECORD KEEPING	ECM Quick Add Profile – XX	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1508/219		
RECENT ALTERATIONS	Nil		
PREVIOUS DELEGATION REFERENCE	LG3L – Airport Redevelopment Project – Inviting Tenders and Rejecting and Accepting Tenders		

6.2 Attachment G

# DA 1 - 10 Panels of Pre-Qualified Suppliers

## DA 1 – 10 Panels of Pre-Qualified Suppliers

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Office	r
POWER / DUTY DELEGATED	Local Government (Fu Part 4, Divisio	nctions and General) Regulations 1996 on 3
FUNCTION	Regulation 24AB Regulation 24AC Regulation 24AD Regulation 24AH Regulation 24AJ	Local government may establish panels of pre-qualified suppliers Requirements before establishing panels of pre-qualified suppliers Requirements when inviting persons to apply to join panel of pre-qualified suppliers Rejecting and accepting applications to join panel of pre-qualified suppliers Contracts with pre-qualified suppliers
CONDITIONS	This delegation is subject to:  (a) Compliance with the requirements of the City of Busselton's Purchasing Policy as it relates to panels of pre-qualified suppliers; and  (b) The contract value of any particular goods or services to be procured from a particular supplier or in connect with a particular project is not to exceed \$500,000.	
POLICY	Purchasing (ECM 2635850)	
REFERENCE DOCUMENTS	Nil	

RECORD KEEPING	ECM Quick Add Profile – XX	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1508/219	Recent Council Resolution C1808/150	
RECENT ALTERATIONS	July 2018		
PREVIOUS DELEGATION REFERENCE	LG3M – Establishment of Pane	LG3M – Establishment of Panels of Pre-Qualified Suppliers	

6.2 Attachment H

# DA 1 - 11 Amendments to the Consolidated Parking Scheme

## DA 1 – 11 Amendments to the Consolidated Parking Scheme

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	City of Busselton Parking Local Law 2011 Section 1.10	
FUNCTION	s.1.10 Powers of Council	
CONDITIONS	The Chief Executive Officer shall ensure Councillors are provided with details of all proposed amendments to the Scheme, and given a period of not less than 14 days to submit a written request to the CEO for the matter to be presented to Council before a delegation is exercised. Any two or more Councillors may consider a proposed amendment to the Consolidated Parking Scheme to be of strategic significance and/or high community interest and request the CEO in writing, to present the proposal to Council for consideration. If the request is supported, the proposed amendment shall be present to the first practicable Council meeting for consideration.  Note: any Councillor may also submit a notice-of-motion in relation to the withdrawal of delegation in relation to a particular proposal, but it would generally be expected that they would first seek to exercise the call-in provision as outlined above.	
POLICY	Ranger and Emergency Services Approach to Regulator Functions (ECM 3092323)	
REFERENCE DOCUMENTS	City of Busselton Parking Local Law 2011	

RECORD KEEPING	ECM Quick Add Profile – XX	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1802/021	and the control of th	
RECENT ALTERATIONS	Nil	Nil	
PREVIOUS DELEGATION REFERENCE	LG3N – Amendments to the Co	LG3N – Amendments to the Consolidated Parking Scheme	

6.2 Attachment I

## DA 1 - 20 Administer Local Laws

## DA 1 – 20 Administer Local Laws

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.18	
FUNCTION	s.3.18 Performing executive functions	
CONDITIONS	Nil	
POLICY	Nil	
REFERENCE DOCUMENTS	City of Busselton Local Laws:  Activities in Thoroughfares and Public Places and Trading Local Law  Busselton Regional Airport Local Law  Keeping and Control of Cats Local Law  Cemeteries Local Law  Depositing and Removal of Refuse Local Law  Dogs Local Law  Dust and Building Waste Control Local Law  Health Local Law  Holiday Homes Local Law  Jetties Local Law  Local Government Property Local Law  Parking Local Law  Standing Orders Local Law	

RECORD KEEPING	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C0806/188	Recent Council Resolution C1808/150
RECENT ALTERATIONS	July 2018	
PREVIOUS DELEGATION REFERENCE	LG3A – Executive Function – Determining Applications Under Local Laws and Enforcement of Local Law Provisions	

6.2 Attachment J

# DA 1 - 21 Acquisition of Property

## DA 1 – 21 Acquisition of Property

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.55, s.3.59 Local Government (Financial Management) Regulations 1996 Regulation 12	
FUNCTION	s.3.55 Acquisition of land Regulation 12 Payments from municipal fund or trust fund, restrictions on making	
CONDITIONS	In accordance with s.5.43(d) of the Local Government Act 1995, the value of the property to be acquired shall not exceed \$100,000	
POLICY	Nil	
REFERENCE DOCUMENTS	Nil	

RECORD KEEPING	ECM Quick Add Profile – XX	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1706/151	Recent Council Resolution C1808/150	
RECENT ALTERATIONS	Nil		
PREVIOUS DELEGATION REFERENCE	LG3B – Acquisition of Property	!	

Attachment K DA 1 - 22 Disposition of Property

## DA 1 – 22 Disposition of Property

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.58 Local Government (Functions and General) Regulations 1996 Regulations 30 (2a) and 30 (3)(a)	
FUNCTION	s.3.58 Disposing of Property Regulation 30 Dispositions of property exclude from Act s3.58	
CONDITIONS	<ul> <li>1. Disposal by Sale <ul> <li>(a) The value of the land to be disposed of shall not exceed \$20,000 other than if paragraph (b) applies; or</li> <li>(b) Where the property is land valued at less than \$100,000 and has been put to public auction or put out to tender and not sold, the land may be disposed of in accordance with Regulation 30 (2a) of the Local Government (Functions and General) Regulations 1996; and</li> <li>(c) The value of property other than land to be disposed of shall not exceed \$100,000; and</li> <li>(d) Where the value of property other than land does not exceed \$20,000 the property may be disposed of in accordance with Regulation 30 (3)(a) of the Local Government (Functions and General) Regulations 1996.</li> </ul> </li> <li>2. Disposal by way of Lease or Licence <ul> <li>(a) Applies to land or buildings comprising established sporting or community facilities whee any other part of the land or building has been leased or licensed by a local government before, subject to the following: <ul> <li>(i) The maximum term of the lease or licence, including any right by a lessee to assign the lease or sublease the property or extend the term of the lease, shall not exceed 5 years unless the lease or licence is the renewal of a lease or licence by a sporting or community group of an existing building or land for a period of not more than 10 years;</li> <li>(ii) The value of the lease or licence does not exceed \$25,000 pa;</li> <li>(iii) The permitted use of the property must be consistent with:  <ul> <li>A. The designated purpose of the property; or</li> <li>B. The general or ancillary use of the property immediately prior to entering into the lease or licence; or</li> <li>C. If the property has recently be acquired, the intention for which the property has been acquired by the local government.</li> </ul> </li> </ul></li></ul></li></ul>	

6.2 Attachment K

# DA 1 - 22 Disposition of Property

	<ul> <li>(iv) This delegation does not include the power to allow assignment of a lease or sub-lease of the property subject to the abovementioned conditions.</li> <li>(b) In addition, this delegation applies to the first time a property is leased or licenced where the lease or licence is for the purpose of storage only or comprises an area of less than 100 square metres subject to the matters set out in paragraph 2 (a) (i) to (iv).</li> <li>3. Briefing and Reporting</li> <li>At least every six months and more frequently if required by the Mayor or CEO, City officers shall provide Councillors a summary and update of leases or licences entered into under this delegation.</li> </ul>
POLICY	Nil
REFERENCE DOCUMENTS	Nil

RECORD KEEPING	ECM Quick Add Profile – XX	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1706/151	Recent Council Resolution C1807/142	
RECENT ALTERATIONS	June 2018		
PREVIOUS DELEGATION REFERENCE	LG3C – Disposing of Property	LG3C – Disposing of Property	

6.2 Attachment L

# DA 1 - 24 Affixing of the Common Seal

## DA 1 – 24 Affixing of the Common Seal

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.9.49A(2)	
FUNCTION	s.9.49A(2) Execution of documents	
CONDITIONS	The CEO is authorised to affix the Common Seal to all documents that require it to be legally effective and to carry out the functions of a CEO.	
POLICY	Nil	
REFERENCE DOCUMENTS	Nil	

RECORD KEEPING	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1005/169	Recent Council Resolution C1808/150
RECENT ALTERATIONS	Nil	
PREVIOUS DELEGATION REFERENCE	LG9B – Authorising the Affixing of t	he Common Seal to Documents

6.2 Attachment M

DA 2 - 01 The Powers and Duties of the Local Government pursuant to the Building Act 2011

# BUILDING ACT 2011 DA 2 – 01 The Powers and Duties of the Local Government pursuant to the Building Act 2011

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Building Act 2011 Part 8, Division 2, Section 96 Part 10, Section 127
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	The Building Act 2011
FUNCTION	All the powers and duties of the local government pursuant to the Building Act 2011
CONDITIONS	Nil
POLICY	Nil
REFERENCE DOCUMENTS	Nil

RECORD KEEPING	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1110/334	Recent Council Resolution C1808/150
RECENT ALTERATIONS	July 2018	
PREVIOUS DELEGATION REFERENCE	BA1 – Powers of the Local Government pursuant to the Building Act 2011	

6.2

Attachment N

## DA 3 - 01 The Powers and Duties of the Local Government pursuant to the Bush Fires Act 1954

## **BUSH FIRES ACT 1954** DA 3 - 01 The Powers and Duties of the Local Government pursuant to the Bush Fires Act 1954

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Bush Fires Act 1954 Part V, Section 48
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	The Bush Fires Act 1954
FUNCTION	All powers of the local government pursuant to the Bush Fires Act 1954
CONDITIONS	1. Excludes the powers and duties that are subject to separate delegated authority within this Register as set out below:  (a) DA 3 – 02 Appointment of Bush Fire Control Officers;  (b) DA 3 – 03 Prosecutions and Infringements;  (c) DA 3 – 04 Variation of Prohibited and Restricted Burning Times  2. A delegation as per s.48 does not include the power to subdelegate
POLICY	Nil
REFERENCE DOCUMENTS	Annual Firebreak and Fuel Hazard Reduction Notice

RECORD KEEPING	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C969/0425	Recent Council Resolution C1812/264
RECENT ALTERATIONS	December 2018	
PREVIOUS DELEGATION REFERENCE	BF1 – The performance of any under the Act	of the functions of the local government

6.2 Attachment O

# DA 3 - 02 Appointment of Bush Fire Control Officers

## DA 3 – 02 Appointment of Bush Fire Control Officers

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Bush Fires Act 1954 Part V, Section 48 Delegation by Local Governments
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	Bush Fires Act 1954 Part IV, Section 38
FUNCTION	s.38 Local government may appoint bush fire control officer
CONDITIONS	<ol> <li>This delegation is limited to the appointment of members of volunteer bush fire brigades and the City Ranger and Emergency Services Staff;</li> <li>In the case of appointment of members of volunteer bush fire brigades, the delegation shall only be exercised where there is a recommendation to appoint from the Bush Fire Advisory Committee; and</li> <li>This delegation does not extend to the appointment of Chief or Deputy Bush Fire Control Officers.</li> </ol>
POLICY	Membership of Bush Fire Brigades (ECM 2491306) Qualifications of Bush Fire Brigades Officers (ECM2491314) Roles of Bush Fire Brigade Officers (ECM 2491878) Code of Conduct, Bush Fire Brigade Objectives and Values (ECM 2491322)
REFERENCE DOCUMENTS	Annual Firebreak and Fuel Hazard Reduction Notice

RECORD KEEPING	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C969/0425	Recent Council Resolution C1812/264
RECENT ALTERATIONS	December 2018	
PREVIOUS DELEGATION REFERENCE	BF2 – Appointment of Bush Fire Control Officers	

DA 4 - 01 The Powers and Duties of the Local Government pursuant to the Cat Act 2011

13 August 2019

# CAT ACT 2011 DA 4 – 01 The Powers and Duties of the Local Government pursuant to the Cat Act 2011

37

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Cat Act 2011 Part 4, Division 2, Section 44
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	The Cat Act 2011
FUNCTION	All powers and duties of a local government pursuant to the Cat Act 2011
CONDITIONS	Nil
POLICY	Rehoming of Impounded Dogs and Cats (ECM 3070207) Ranger and Emergency Services Approach to Regulatory Functions (ECM 3092323)
REFERENCE DOCUMENTS	Keeping and Control of Cats Local Law 2014

RECORD KEEPING	ECM Quick Add Profile – XX	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1310/285	「表現の表現」の表現である。10mmの表現が、	
RECENT ALTERATIONS	July 2018	July 2018	
PREVIOUS DELEGATION REFERENCE	CA1 – The Powers and Duties o	CA1 – The Powers and Duties of the Cat Act 2011	

13 August 2019

6.2 Attachment Q

DA 5 - 01 The Powers and Duties of the Local Government pursuant to the Dog Act 1976

# DOG ACT 1976 DA 5 – 01 The Powers and Duties of the Local Government pursuant to Dog Act 1976

38

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Dog Act 1976 Section 10AA
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	The <i>Dog Act 1976</i>
FUNCTION	All the powers and duties of the local government pursuant to the <i>Dog Act 1976</i>
CONDITIONS	Nil
POLICY	Rehoming of Impounded Dogs and Cats (ECM 3070207) Ranger and Emergency Services Approach to Regulatory Functions (ECM 3092323)
REFERENCE DOCUMENTS	Dogs Local Law 2014

RECORD KEEPING	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1310/285	Recent Council Resolution C1808/150
RECENT ALTERATIONS	July 2018	
PREVIOUS DELEGATION REFERENCE	DA1 – The powers and duties of the Dog Act 1976 including the authority to further delegate	

DA 6 - 01 The Powers and Duties of the Local Government pursuant to the Graffiti Vandalism Act 2016

# DA 6 – 01 The Powers and Duties of a Local Government pursuant to the Graffiti Vandalism Act 2016

0.9	
POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Graffiti Vandalism Act 2016 Section 16
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	The Graffiti Vandalism Act 2016
FUNCTION	All the powers and duties of a local government pursuant to the Graffiti Vandalism Act 2016
CONDITIONS	Nil
POLICY	Nil
REFERENCE DOCUMENTS	Department of Local Government and Communities Circular No.18-2016 'Graffiti Vandalism Act 2016'

RECORD KEEPING	ECM Quick Add Profile – XX	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1706/131	Recent Council Resolution	
RECENT ALTERATIONS	Nil		
PREVIOUS DELEGATION REFERENCE	GV1 – Exercise of any of the local governments powers or the discharge of any of its duties under Part 3 of the <i>Graffiti Vandalism Act 2016</i>		

DA 8 - 01 Certificate of Approval pursuant to the Strata Titles Act 1985

STRATA TITLES ACT 1985		
DA 8 - 01	DA 8 – 01 Certificate of Approval pursuant to the Strata Titles Act 1985	

40

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Strata Titles Act 1985 s.25 Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Strata Titles Act 1985 Section 25	
FUNCTION	s.25 Certificate of Commission	
CONDITIONS	Nil	
POLICY	Nil	
REFERENCE DOCUMENTS	Planning Bulletin 52/2009	

RECORD KEEPING	ECM Quick Add Profile – XX	ECM Quick Add Profile – XX	
VERIFICATION	Initial Council Resolution C1409/235	State of the state	
RECENT ALTERATIONS	Nil		
PREVIOUS DELEGATION REFERENCE	STA1 – Certificate of Approval	STA1 – Certificate of Approval	

# Current Delegations (proposed to be amended)



## Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3D	3.25(1) 3.26(2) 3.26(3)	Chief Executive Officer	Notices Requiring Certain Things to be Done by Owner or Occupier of Land and Additional Powers When Notice is Given

## Delegator

Council

## Power/Duty

To exercise the powers and discharge the duties of the local government under Section 3.25(1), 3.26(2) and 3.26(3) of the *Local Government Act 1995*.

## Conditions

Nil.

## **Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act* 1995 to delegate to the CEO the discharge of its powers and duties provided for in sections 3.25(1), 3.26(2) and 3.26(3) of the *Local Government Act* 1995.

## Section 3.25(1)

A local government may give a person who is the owner or, unless Schedule 3.1 indicates otherwise, the occupier of land a notice in writing relating to the land requiring the person to do anything specified in the notice that -

- (a) is prescribed in Schedule 3.1, Division 1; or
- (b) is for the purpose of remedying or mitigating the effects of any offence against a provision prescribed in Schedule 3.1, Division 2.

## Current Delegations (proposed to be amended)

#### Explanatory note only Schedule 3.1. Division 1 Things a notice may require to be done Prevent water from dripping or running from a building on the land onto any otherland. Place in a prominent position on the land a number to indicate the address. Modify or repair, in the interests of the convenience or safety of the public, anything constructed as mentioned in Schedule 9.1, 3. clause 8, or repair any damage caused to the public thoroughfare or other public place mentioned in that clause 4. Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item (1)by a local law (a) suitably enclosed to separate it from the public place; and (b) where applicable, is enclosed with a close fence, to the satisfaction of the local government, suitable to prevent sand or other matter coming from the land onto the public place. (2)The notice cannot be given to an occupier who is not an owner. 5. (1) Ensure that unsightly land is enclosed, to the satisfaction of the local government, with a fence or other means suitable to prevent the land, so far as is practicable, from being unsightly. (2) "unsightly", in relation to land, means having an appearance that, because of the way in which the land is used, does not conform with the general appearance of other land in the locality. (3) The notice cannot be given to an occupier who is not an owner. 5A. (1) Ensure that overgrown vegetation, rubbish, or disused material, as specified, is removed from land that the local government considers to be untidy. (2) In this item "disused material" includes disused motor vehicles, old motor vehicle bodies and old machinery. Take specified measures for preventing or minimizing sand drifts on the land that are likely to adversely affect other land. Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law is not overgrown. Remove all or part of a tree that is obstructing or otherwise prejudicially affecting a thoroughfare that is under the local government's control or management and adjoins the land where the tree is situated. Ensure that a tree on the land that endangers any person or thing on adjoining land is made safe. Take specified measures for preventing or minimizing danger to the public; or damage to property, which might result from cyclonic activity. 11. Remove bees that are likely to endanger the safety of any person or create a serious publicnuisance. 12. Ensure that an unsightly, dilapidated or dangerous fence or gate that separates the land from land that is local government property is modified or repaired. 13. Take specific measures to prevent artificial light being emitted from the land; or (a) (b) natural or artificial light being reflected from something on the land, creating a nuisance. 14. (1) Remove or make safe anything that is obstructing or otherwise prejudicially affecting a private thoroughfare so that danger to anyone using the thoroughfare is prevented or minimised. (2) "private thoroughfare" has the same meaning as in Schedule 9.1 clause 7(1). **Explanatory note only** Schedule 3.1, Division 2 Provisions contraventions of which may lead to a notice requiring things to be done Regulations under Schedule 9.1, clause 3 (Obstructing or encroaching on publicthoroughfare). 1A. $Regulations \ under Schedule \ 9.1, clause \ 5(1) \ (Gates \ and \ other \ devices \ across \ public \ thorough fares) \ requiring \ a \ person \ to \ remove$ a gate or other device from across a public thoroughfare when requested by a local government to do so. Regulations under Schedule 9.1, clause 6 (Dangerous excavation in or nearpublic thoroughfare). 2A. Regulations under Schedule 9.1, clause 7(2) (Crossings from public thoroughfares to private land or to private thoroughfares) that -(a) prohibit a person from constructing a crossing; or by means of a notice in writing given to a person by the Commissioner of Main Roads, require the person to bring a crossing into accordance with an approval by the Commissioner of Main Roads or to remove a crossing and restore

the place where it was to its former condition.

Regulations under Schedule 9.1, clause 12 (Wind erosion and sanddrifts).

5.

Regulations under Schedule 9.1, clause 8(1) (Constructing private works on, over, or under public places). Regulations under Schedule 9.1, clause 9 (Protection of watercourses, drains, tunnels and bridges).

Regulations under Schedule 9.1, clause 10 (Protection of thoroughfares from water damage).

# Current Delegations (proposed to be amended)

## Section 3.26(2)

If the person who is given the notice ("notice recipient") fails to comply with it, the local government may do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.

## Section 3.26(3)

The local government may recover the cost of anything it does under subsection (2) as a debt due from the person who failed to comply with the notice.

#### Verification

Recent Council Resolution C1808/150

Initial Council Resolution C0806/188

# **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the Local Government Act 1995, at least once every financial year.

# Current Delegations (proposed to be amended)



## Instrument of Delegation

Reference Number	Act Reference	Delegates	Delegation Subject
LG3F	Local Government Act 1995 s.3.39 s.340A	Chief Executive Officer	Power to Remove and Impound Abandoned Vehicle Wrecks may be taken

## Delegator

Council

## Power/Duty

The powers to remove and impound goods or abandoned vehicle wrecks and the power to declare an abandoned vehicle wreck, pursuant to Sections 3.39 and 3.40A of the *Local Government Act 1995*.

## Conditions

Disposal of a declared abandoned vehicle wreck is to be undertaken in accordance with Delegation LG3G Disposing of Uncollected Goods.

## **Statutory Framework**

Council is exercising its power of delegation under Section 5.42 of the Local Government Act 1995.

## Verification

Recent Council Resolution Initial Council Resolution C1812/264 C1806/188

## **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

# **Related Documents**

Nil.

Current Delegations (proposed to be amended)

# **Notes of Alteration**

Delegation strengthened to include the power of a local government to declare that an impounded vehicle is an abandoned vehicle wreck under s.3.40A of the Act. Improved wording to strengthen and clarify the specific power/duty (12 December 2018)

# Current Delegations (proposed to be amended)



## Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3H	3.50(1) 3.50(1a) 3.50(4) 3.50(6) 3.50A FG Reg 6(3)	Chief Executive Officer	Closing Certain Thoroughfares to Vehicles and Partial Closure of Thoroughfare for Repairs or Maintenance

#### Delegator

Council.

## Power/Duty

To exercise the powers and discharge the duties of the local government under Section 3.50(1), 3.50(1a), 3.50(4), 3.50(6) and 3.50A of the *Local Government Act 1995* and regulation 6(3) of the *Local Government (Functions and General) Regulations 1996*.

#### Conditions

Nil.

## Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act* 1995 to delegate to the CEO the discharge of its powers and duties provided for in sections 3.50(1), 3.50(1a), 3.50(4), 3.50(6) and 3.50A of the *Local Government Act* 1995 and regulation 6(3) of the *Local Government (Functions and General) Regulations* 1996.

## Section 3.50(1)

A local government may close any thoroughfare that it manages to the passage of vehicles, wholly or partially, for a period not exceeding 4 weeks.

#### Section 3.50(1a)

A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.

## Current Delegations (proposed to be amended)

#### Section 3.50(4)

Before it makes an order wholly or partially closing a thorough fare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thorough fare, the local government is to -

- (a) give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission;
- (b) give written notice to each person who
  - (i) is prescribed for the purposes of this section; or
  - (ii) owns land that is prescribed for the purposes of this section; and
- (c) allow a reasonable time for submissions to be made and consider any submissions made.

#### Section 3.50(6)

An order under this section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which local public notice is given.

#### Section 3.50A

Despite section 3.50, a local government may partially and temporarily close a thoroughfare, without giving local pub notice, if the closure —

- (a) is for the purpose of carrying out repairs or maintenance; and
- (b) is unlikely to have a significant adverse effect on users of the thoroughfare.

## Functions and General Regulation 6(3)

The local government may, by local public notice, order that the closure be revoked or that it be varied in such a way as to be less restrictive.

#### Verification

Recent Council Resolution

Initial Council Resolution

C1808/150 C0806/188

## **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

## Current Delegations (proposed to be amended)



#### Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3J	LGA - 3.57 Functions and General Regs 11, 13, 14, 18, 20 and 21A	Chief Executive Officer	Inviting Tenders and Rejecting and Accepting Tenders

#### Delegator

Council.

## Power/Duty

To exercise the powers and discharge the duties of the local government under regulations 11, 13, 14, 18, 20 and 21A of the Local Government (Functions and General) Regulations to:

- (1) Publicly invite tenders;
- (2) Determine the written criteria for deciding which tender should be accepted;
- (3) Reject, assess, decline to accept any tender or decide which tender to accept;
- (4) Enter into a contract for the supply of goods and services;
- (5) Vary requirements before entering into a contract; and/or
- (6) Vary a contract for the supply of goods and services.

In relation to the procurement of goods and services under an exception to the tender process, as provided for in regulation 11(2) of the Local Government (Functions and General) Regulations, to exercise the powers and discharge the duties of the local government to determine that an exception applies and enter into a contract for the supply of goods and services.

## Conditions

The delegation is subject to:

- a) complying with the requirements of the City's Purchasing Policy as it relates to tendering;
- b) following any applicable staff management practices and operational procedures; and
- c) not accepting any tender or entering into any contract having a value exceeding \$500,000.

#### **Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in section 3.57 of the *Local Government Act 1995* and part of Regulation 11, 14, 18, 20 and 21A of the *Local Government (Functions and General) Regulations 1996*.

## Current Delegations (proposed to be amended)

#### Local Government Act Section 3.57.

#### Tenders for providing goods or services

- A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

#### Functions and General Regulation 11.

#### When tenders have to be publicly invited

(1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150,000 unless subregulation (2) states otherwise.

#### Functions and General Regulation 13.

#### Requirements inviting tenders when not required to

(1) If a local government, although not required by this Division to invite tenders before entering into a contract for another person to supply goods or services, decides to invite tenders, the tenders are to be publicly invited according to the requirements of this Division.

#### Functions and General Regulation 14.

#### Requirements for publicly inviting tenders

- (2a) If a local government -
  - (a) is required to invite a tender; or
  - (b) not being required to invite a tender, decides to invite a tender,

the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

## Functions and General Regulation 18.

## Rejecting and accepting tenders

- (1) A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.
- (2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.
- (3) If, under regulation 23(4), the CEO has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.
- (4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.
- (4a) To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.
- (5) The local government may decline to accept any tender.
- (6) If a local government has accepted a tender but acceptance of the tender does not create a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree not to

## Current Delegations (proposed to be amended)

enter into a contract in relation to the tender, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.

(7) If a local government has accepted a tender and acceptance of the tender creates a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.

#### Functions and General Regulation 20.

#### Variation of requirements before entry into a contract

- (1) If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.
- (2) If-
  - (a) the chosen tenderer is unable or unwilling to enter into a contract to supply the varied requirement; or
  - (b) the local government and the chosen tenderer cannot agree on any other variation to be included in the contract as a result of the varied requirement,

that tenderer ceases to be the chosen tenderer and the local government may, instead of again inviting tenders, choose the tenderer, if any, whose tender the local government considered it would be the next most advantageous to it to accept.

(3) In subregulation (1) -

minor variation means a variation that the local government is satisfied is minor having regard to the total goods or services that tenderers were invited to supply.

#### Functions and General Regulation 21A.

#### Varying a contract for the supply of goods or services

- (1) If a local government has entered into a contract for the supply of goods or services with a successful tenderer, the contract must not be varied unless
  - (a) the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract; or
  - (b) the variation is a renewal or extension of the term of the contract as described in regulation 11(2)(i).

#### Verification

Recent Council Resolution C1807/144

Initial Council Resolution C1103/179

Current Delegations (proposed to be amended)

#### **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

## **Related Documents**

Tender Register

## Notes of recent alterations

Amendments to remove condition referencing Council Policy with respect to selection criteria and instead reference staff management practices and operational procedures and to add in reference to Regulation 13 (26 June 2018)

Inclusion of specific reference to various other administrative functions associated with the tender process by way of including reference to Regulations 20 and 21A. Regulation 20 enables the CEO to vary requirements prior to entering into a contract with the chosen tenderer. Regulation 21A enables the CEO to vary a contract for the supply of goods and services (9 August 2017)

Condition (b) reworded to require from the CEO to follow the City's internal operational processes and procedures for the purposes of tender evaluation (9 August 2017)

Conditions (b) and (c) reversed in order for the purposes of referencing the City's Purchasing Policy as the initial reference document, followed by operational processes and procedures (9 August 2017)

## Current Delegations (proposed to be amended)



## Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3K	Regulations 21(1) and 23(3) of the Local Government (Functions and General) Regulations 1996	Chief Executive Officer	Preliminary Selection of Tenderers  Reg 21(1) – Whether to make a preliminary selection from amongst prospective tenderers  Reg 23(3) – Assess expressions of interest and decide which are from persons capable of satisfactorily supplying the goods or services.

## Delegator

Council

## Power/Duty

## Regulation 21(1)

To exercise the local government's powers and discharge the duties of the local government under Regulation 21 of the *Local Government (Functions and General) Regulations 1996* to decide whether to make a preliminary selection from amongst prospective tenderers by seeking expressions of interest with respect to the supply of the goods or services.

# Regulation 23(3)

To exercise the powers and duties of the local government under Regulation 23(3) of the *Local Government* (Functions and General) Regulations to assess expressions of interest that have not been rejected under subregulation (1) or (2) and decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services.

# **Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for under Regulations 21(1) and 23(3) of the *Local Government (Functions and General) Regulations 1996*.

## Current Delegations (proposed to be amended)

## Regulation 21. Limiting who can tender, procedure for

(1) If a local government decides to make a preliminary selection from amongst prospective tenderers, it may seek expressions of interest with respect to the supply of the goods or services.

## Regulation 23. Rejecting and accepting expressions of interest to be acceptable tenderer

- (1) .
- (2) ...
- (3) Expressions of interest that have not been rejected under subregulation (1) or (2) are to be considered by the local government and it is to decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services.

## Verification

Recent Council Resolution C1807/144

Initial Council Resolution C1606/139

## **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the Local Government Act 1995, at least once every financial year.

# **Notes of Alterations**

Removal of reference to the Tender Pre Selection Criteria Policy which is no longer in force and minor wording changes to provide clarity to the delegation (26 June 2018)

## Current Delegations (proposed to be amended)



#### **Instrument of Delegation**

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3L	3.57 F and G Regs 14 and 18	Chief Executive Officer	Airport Redevelopment Project - Inviting Tenders and Rejecting and Accepting Tenders

## Delegator

Council.

#### Power/Duty

To exercise the powers and discharge the duties of the local government under Regulation 14 of the *Local Government (Functions and General) Regulations* to publicly invite tenders by determining the written criteria for deciding which tender should be accepted.

To exercise the powers and discharge the duties of the local government under Regulation 18 of the Local Government (Functions and General) Regulations relating to rejecting and accepting tenders.

To approve variations to contracts awarded under this delegation.

## **Conditions**

The delegation is subject to:

- a) Following the City's operational practice utilising tender evaluation processes and documentation;
- b) Compliance with the requirements of the City's Purchasing Policy as it relates to tendering;
- c) Acceptance of a tender is not to exceed a contract value of \$1,000,000;
- d) Any contract variation is not to exceed 10% of the contract value; and
- e) The delegation to accept a tender can only be exercised with agreement from the CEO of the South West Development Commission.

## Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act* 1995 to delegate to the CEO the discharge of its powers and duties provided for in section 3.57 of the *Local Government Act* 1995 and part of Regulation 14 and Regulation 18 of the *Local Government (Functions and General) Regulations* 1996.

# Current Delegations (proposed to be amended)

Local Government Act Section 3.57.

Tenders for providing goods or services

- A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

Functions and General Regulation 14.

Requirements for publicly inviting tenders

(2a) If a local government —

- (a) is required to invite a tender; or
- (b) not being required to invite a tender, decides to invite a tender,

the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

## Current Delegations (proposed to be amended)

## Functions and General Regulation 11. When tenders have to be publicly invited

(1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150 000 unless subregulation (2) states otherwise.

#### Functions and General Regulation 18. Rejecting and accepting tenders

- A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.
- (2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.
- (3) If, under regulation 23(4), the CEO has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.
- (4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.
- (4a) To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.
- (5) The local government may decline to accept any tender.
- (6) If a local government has accepted a tender but acceptance of the tender does not create a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree not to enter into a contract in relation to the tender, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.
- (7) If a local government has accepted a tender and acceptance of the tender creates a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.

## Verification

Recent Council Resolution C1808/150

Initial Council Resolution C1508/219

#### **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

## Current Delegations (proposed to be amended)



#### Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3M	5.42(1)(a)	Chief Executive Officer	Establishment of Panels of Prequalified Suppliers

#### Delegator

Council.

#### Power/Duty

To exercise the following powers and discharge the following duties of the local government under Part 4 Division 3 of the Local Government (Functions and General) Regulations 1996:

- 1. Pursuant to Regulation 24AC(1)(b) determine whether there is, or will be, a continuing need for the particular goods or services to be supplied by pre-qualified suppliers;
- 2. In accordance with Regulations 24AD 24AI establish panels of pre-qualified suppliers for provision of particular goods or services; and
- In accordance with Regulation 24AJ enter into a contract, or contracts, for the supply of goods or services
  with a pre-qualified supplier who is part of a panel of pre-qualified suppliers for the supply of those particular
  goods or services.

## Conditions

This delegation is subject to:

- (a) Compliance with the requirements of the City's Purchasing Policy as it relates to panels of pre-qualified suppliers; and
- (b) The contract value of any particular goods or services to be procured from a particular supplier or in connection with a particular project is not to exceed \$500,000.

## **Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO to exercise some of its powers and discharge of its duties provided for under Part 4 Division 3 of the *Local Government (Functions and General) Regulations 1996.* 

## Current Delegations (proposed to be amended)

24AB. Local government may establish panels of pre-qualified suppliers

A local government may establish a panel of pre-qualified suppliers to supply particular goods or services to the local government in accordance with this Division.

24AC. Requirements before establishing panels of pre-qualified suppliers

- (1) A local government must not establish a panel of pre-qualified suppliers unless —
- (a) .....; and
- (b) the local government is satisfied that there is, or will be, a continuing need for the particular good or services to be supplied by pre-qualified suppliers.

## Verification

Recent Council Resolution

Initial Council Resolution

C1808/150

C1704/091

## **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, Delegations are reviewed at least once every financial year.

#### **Related Documents**

City of Busselton Purchasing Policy

# **Notes of Recent Alterations**

Removal of numbering to title of City of Busselton Purchasing Policy to reflect new format (24 July 2018)

Removal of references to City of Busselton Tender Selection Criteria Policy 031 and City of Busselton Tender Pre Selection Criteria Policy 247 (24 July 2018)

## Current Delegations (proposed to be amended)



#### Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3N	Section 5.42 (1)	Chief Executive Officer	Amendments to the Consolidated Parking Scheme

#### Delegator

Council

## Power/Duty

Prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region consistently with the provision of the City of Busselton Parking Local Law 2011.

#### Conditions

## "Call-in" and referral provisions

The CEO shall ensure Councillors are provided with details of all proposed amendments to the Scheme, and given a period of not less than 14 days to submit a written request to the CEO for the matter to be presented to Council before the delegation is exercised.

Any two or more Councillors may consider a proposed amendment to the Consolidated Parking Scheme to be of strategic significance and/or high community interest and request the CEO in writing, to present the proposal to Council for consideration. If the request is supported, the proposed amendment shall be presented to the first practicable Council meeting for consideration.

Note: any Councillor may also submit a notice-of-motion in relation to the withdrawal of delegation in relation to a particular proposal, but it would generally be expected that they would first seek to exercise the call-in provision as outlined above.

## **Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers pursuant to Section 1.10 of the City of Busselton Parking Local Law 2011 which was made in accordance with Part 3 of the *Local Government Act 1995*.

#### Verification

Recent Council Resolution C1808/150 Initial Council Resolution C1802/021

Current Delegations (proposed to be amended)

## **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

## **Related Documents**

City of Busselton Parking Local Law 2011

## Current Delegations (proposed to be amended)



## Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3A	Subdivision 2 of Division 3 of Part 3	Chief Executive Officer	Executive Function - Determining Applications Under Local Laws and Enforcement of Local Law Provisions

## Delegator

Council

## Power/Duty

To determine applications received by the City in accordance with a Local Law made by the City of Busselton (Shire of Busselton) in accordance with Subdivision 2 of Division 3 of Part 3 of the *Local Government Act 1995* and to enforce the provisions of those local laws and to otherwise exercise the powers and discharge the duties of the local government under those local laws.

#### Conditions

Nil.

# Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in any local law made in accordance with Part 3 of the *Local Government Act 1995*.

## Verification

Recent Council Resolution Initial Council Resolution C1808/150 C0806/188

# **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Current Delegations (proposed to be amended)

## **Related Documents**

For the purposes of this delegation, related documents include:

Activities in Thoroughfares and Public Places and Trading Local Law
Busselton Regional Airport Local Law
Keeping and Control of Cats Local Law
Cemeteries Local Law
Depositing and Removal of Refuse
Local Law Dogs Local Law
Dust and Building Waste Control Local Law
Health Local Law
Holiday Homes Local Law
Jetties Local Law
Local Government Property Local Law
Parking Local Law
Standing Orders Local Law

## **Notes of Recent Alterations**

Update to the Local Government Act Reference and Delegation Subject to assign the delegation with the correct and relevant section of the Act (24 July 2018)

## Current Delegations (proposed to be amended)



## Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3B	5.43(d)	Chief Executive Officer	Acquisition of Property

## Delegator

Council

#### Power/Duty

To acquire property on the local government's behalf.in accordance with section 5.43(d).

#### Conditions

The value of the property shall not exceed \$100,000 in accordance with Section 5.43(d) of the *Local Government Act 1995*.

#### Section 5.43(d)

A local government cannot delegate to a CEO any of the following powers or duties —

(d)

acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph.

## **Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act* 1995 to delegate to the CEO the discharge of its powers and duties provided for in section 5.43(d) of the *Local Government Act* 1995.

# Verification

Recent Council Resolution Initial Council Resolution

C1808/150 C1706/151

## **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

## Current Delegations (proposed to be amended)



#### Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG3C	Sections 3.58(2), (3) and (4)	Chief Executive Officer	Disposing of Property

#### Delegator

Council

## Power/Duty delegated

To exercise the following powers and discharge the following duties of the local government under Sections 3.58(2), (3) and (4) of the *Local Government Act 1995 (Act)*:

- Pursuant to Section 3.58(2) of the Act dispose of property by way of a public auction or public tender;
- Pursuant to Section 3.58(3) and (4) of the Act dispose of property other than under Section 3.58(2) – (local Public Notice requirements).

#### **Conditions**

This delegation is subject to:

- 1. Disposal by sale
  - The value of the land to be disposed of shall not exceed \$20,000 other than if paragraph (b) applies; or
  - (b) Where the property is land valued at less than \$100,000 and has been put to public auction or put out to tender and not sold, the land may be disposed of in accordance with Regulation 30 (2a) of the Local Government (Functions and General) Regulations 1996.
  - (c) The value of property other than land to be disposed of shall not exceed \$100,000;
  - (d) Where the value of property other than land does not exceed \$20,000, the property may be disposed of in accordance with Regulation 30 (3) (a) of the

## Current Delegations (proposed to be amended)

Local Government (Functions and General) Regulations 1996.

#### 2. Disposal by Lease or Licence

- (a) This delegation applies to land or buildings comprising established sporting or community facilities where any other part of the land or building has been leased or licensed by local government before, subject to the following:
  - (i) The maximum term of the lease or licence, including any right by a lessee to assign the lease or sublease the property or extend the term of the lease, shall not exceed 5 years unless the lease or licence is the renewal of a lease or licence by a Sporting or Community group of an existing building or land for a period of not more than 10 years;
  - (ii) The value of the lease or licence does not exceed \$25,000 pa;
  - (iii) The permitted use of the property must be consistent with:
    - A. the designated purpose of the property; or
    - the general or ancillary use of the property immediately prior to entering into the lease or licence; or
    - C. if the property has recently been acquired, the intention for which the property has been acquired by the local government.
  - (iv) This delegation includes the power to allow assignment of a lease or sublease of the property subject to the abovementioned conditions.
- (b) In addition, this delegation applies to the first time a property is leased or licensed where the lease or licence is for the purpose of storage only or comprises an area of less than 100 square metres subject to the matters set out in paragraph 2(a)(i) to (iv).

#### 3. Briefing and Reporting

At least every six months (and more frequently if required by the Mayor or the CEO), City officers shall provide Councillors a summary and update of leases or licences entered into under this delegation.

## **Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act* 1995 to delegate to the CEO some of its powers and duties provided for in Section 3.58 of the Act, read with Section 5.43 of the Act:

## Current Delegations (proposed to be amended)

#### **Local Government Act Section 5.43**

Acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;

#### Functions and General Regulation 30.

#### Dispositions of property excluded from Act

- (2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been -
  - (a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government; or
  - (b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable.
- (3) A disposition of property other than land is an exempt disposition if
  - (a) its market value is less than \$20 000; or
  - (b) the entire consideration received by the local government for the disposition is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75,000.

## Verification

Recent Council Resolution C1807/142

Initial Council Resolution C1706/151

## **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

# **Notes of Recent Alterations**

Amendments made to delegation to broaden the scope of the delegation to include leases or licences over minor portions of land or buildings which may not have been leased before (26 June 2018)

Specific inclusion to delegation to incorporate leases or licences of land or buildings with a maximum area of 100 square metres provided that other conditions, such as the value of the disposition and consistency of purpose are applied (26 June 2018)

Inclusion of a briefing and reporting requirement in that Council are to be notified periodically of the circumstances under which this delegation is exercised (26 June 2018)

# Current Delegations (proposed to be amended)



## Instrument of Delegation

Reference Number	Local Government Act Reference	Delegate	Delegation Subject
LG9B	9.49A(2)	Chief Executive Officer	Authorising the Affixing of the Common Seal to Documents

## Delegator

Council.

#### Power/Duty

To authorise the affixing of the Common Seal of the City to a document that needs the City's Common Seal to be legally effective and that is in one or more of the following categories -

- 1. documents required to satisfy conditions of subdivision and/or development approval;
- documents required to effect the transfer of land as part of a settlement transaction (sale and purchase);
- documents required to secure the repayment of a loan granted by the City, a loan granted to the City by a third party and/or to secure the pre-funding of infrastructure works by the City;
- documents required to effect the grant of leasehold interests in the land either by the City to a third party, or by a third party to the City;
- documents required to effect the grant of a licence either by the City to a third party, or by a third party to the City;
- 6. documents required to effect the subdivision of land, including the strata titling of land;
- documents which are capable of registration and/or lodgement at Landgate (WA Land Titles office); and
- 8. documents that are necessary or appropriate to enable a CEO to carry out his functions under any written law.

Current Delegations (proposed to be amended)

#### Conditions

The document must not be inconsistent with a Council policy or resolution. While the CEO can authorise the affixing of the Common Seal to a document as classified, it is noted that it is also necessary for the document to be signed by both the Mayor and the CEO (or a senior employee authorised by the CEO).

## Section 5.37

A senior employee is an employee who has been appointed in accordance with Section 5.37 of the Local Government Act.

#### **Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act* 1995.

## Section 9.49A(2)

The Common Seal of a local government is not to be affixed to any document except as authorised by the local government.

## Verification

Recent Council Resolution Initial Council Resolution C1808/150 C1005/169

# **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

## Current Delegations (proposed to be amended)



## **Instrument of Delegation**

Reference Number	Act Reference	Delegate	Delegation Subject
BA1	S127 of Building Act 2011	Chief Executive Officer	Powers of the Local Government pursuant to the Building Act 2011

# Delegator

Council.

#### Power/Duty

To undertake the powers of the local government pursuant to the Building Act 2011.

#### **Conditions**

Nil.

## **Statutory Framework**

Council is exercising its power of delegation under section 127 of the *Building Act 2011* and the delegation of Authorised persons pursuant to section 96(3) of the *Building Act 2011*.

# 127. Delegation: special permit authorities and local governments

- (1) A Special Permit Authority or a Local Government may delegate any of its powers or duties as a Permit Authority under another provision of this Act.
- (3) A delegation of a local government's powers or duties may be only to a local government employee.
- (6A) The CEO of a local government may delegate to any other local government employee a power or duty of the local government that has been delegated to the CEO under this section but in the case of such a power or duty
  - (a) the CEO's power under this subsection to delegate the exercise of that power or the discharge of that duty; and
  - (b) the exercise of that power or the discharge of that duty by the CEO's delegate, are subject to any conditions, qualifications, limitations or exceptions imposed by the local government on its delegation to the CEO.

# Current Delegations (proposed to be amended)

## Verification

Recent Council Resolution Initial Coun-C1808/150 C1110/334

Initial Council Resolution

# **Review Requirements**

At Council's discretion as necessary (no statutory requirement).

## **Notes of Recent Alterations**

Removal of specific reference to section 96 of the Act for the purpose of not creating confusion in terms of whether the CEO can exercise and/or sub-delegate the other powers necessary for the City to meet its obligations to administer the Act (24 July 2018)

# Current Delegations (proposed to be amended)



## Instrument of Delegation

Reference Number	Act Reference	Delegates	Delegation Subject
BF1	Bush Fires Act 1954	Chief Executive Officer	The performance of any of the functions of the local government under the Act

#### Delegator

Council

## Power/Duty

All of the functions of the local government under the Bush Fires Act 1954.

#### **Conditions**

- 1. Excludes the powers and duties that are subject to separate delegated authority within this Register as set out below:
  - (a) BF2 Appointment of Bush Fire Control Officers;
  - (b) BF3 Prosecutions and Infringements
  - (c) BF4 Variation of Prohibited and Restricted Burning Times
- 2. A delegation as per s.48 does not include the power to sub-delegate.

# **Statutory Framework**

Council is exercising its power of delegation under Section 48 of the Bush Fires Act 1954.

#### Verification

Recent Council Resolution Initial Council Resolution C1812/264 C969/0425

## **Review Requirements**

Council discretion (there is no statutory review period)

#### **Related Documents**

Annual Firebreak and Fuel Hazard Reduction Notice.

Current Delegations (proposed to be amended)

## **Notes of Alteration**

Council Resolution C969/0425 on 25 September 1996 gave power to the Coordinator, Ranger and Fire Services (or equivalent position) to undertake these duties, however, Council Resolution C0706/145 on 27 June 2007 revoked this power as Section 48 of the *Bush Fires Act 1954* only provides for the ability for delegation to the CEO, with no opportunity for sub-delegation (*27 June 2007*)

Improved wording to strengthen and clarify the delegation to be for all functions of the local government under the Bush Fires Act 1954 (12 December 2018)

#### Current Delegations (proposed to be amended)



#### Instrument of Delegation

Reference Number	Act Reference	Delegates	Delegation Subject
BF2	Bush Fires Act 1954 s.38 s.48	Chief Executive Officer	Appointment of Bush Fire Control Officers

#### Delegator

Council

#### Power/Duty

To appoint person/s to act as Bush Fire Control Officer/s pursuant to Section 38 of the Bush Fire Act 1954.

#### Conditions

- This delegation is limited to the appointment of members of volunteer bush fire brigades and City Ranger and Emergency Services Staff;
- 4. In the case of appointment of members of volunteer bush fire brigades, the delegation shall only be exercised where there is a recommendation to appoint from the Bush Fire Advisory Committee; and
- 5. This delegation does not extend to the appointment of Chief or Deputy Chief Bush Fire Control Officers.

#### **Statutory Framework**

Council is exercising its power of delegation under Section 48 of the Bush Fires Act 1954.

#### Verification

Recent Council Resolution C1812/264 Initial Council Resolution C969/0425

#### **Review Requirements**

Council discretion (there is no statutory review period).

#### **Related Documents**

Annual Firebreak and Fuel Hazard Reduction Notice.

Current Delegations (proposed to be amended)

#### **Notes of Alteration**

Council Resolution C969/0425 on 25 September 1996 gave power to the Coordinator, Ranger and Fire Services (or equivalent position) to undertake these duties, however, Council Resolution C0706/145 on 27 June 2007 revoked this power as Section 48 of the *Bush Fires Act 1954* only provides for the ability for delegation to the CEO, with no opportunity for sub-delegation (*27 June 2007*)

Improved wording to strengthen and clarify the delegation and the Act reference and condition 3 outlining that the delegation does not apply to the appointment of the Chief Bush Fire Control and the Deputy Chief Bush Fire Control Officer (12 December 2018)

#### Current Delegations (proposed to be amended)



#### **Instrument of Delegation**

Reference Number	Act Reference	Delegate	Delegation Subject
CA1	Cat Act 2011	Chief Executive Officer	The Powers and Duties of the Cat Act 2011

#### Delegator

Council.

#### Power/Duty

All powers and duties of the 'local government' under the Cat Act 2011.

#### **Conditions**

Nil.

#### **Statutory Framework**

Council is exercising its power of delegation under Section 44 of the Cat Act 2011.

#### Verification

Recent Council Resolution Initial Council Resolution C1808/150 C1310/285

#### **Review Requirements**

In accordance with the requirements of Section 47 of the Cat Act 2011, at least once every financial year.

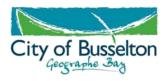
#### **Related Documents**

Keeping and Control of Cats Local Law 2014

### **Notes of Recent Alterations**

Improved wording to strengthen and clarify the delegation as being for all powers and duties of the local government under the Cat Act 2011 (24 July 2018)

#### Current Delegations (proposed to be amended)



#### Instrument of Delegation

Reference Number	Act Reference	Delegate	Delegation Subject
DA1	Dog Act 1976	Chief Executive Officer	The powers and duties of the <i>Dog Act 1976</i> including the authority to further delegate

#### Delegator

Council.

#### Power/Duty

All powers and duties of the 'local government' under the  $Dog\ Act\ 1976$  including the authority to further delegate those powers.

#### **Conditions**

Nil.

#### **Statutory Framework**

Council is exercising its power of delegation under Section 10AA of the *Dog Act 1976* including the authority for the CEO to further delegate the duties and powers of the 'local government' to staff.

#### Verification

Recent Council Resolution Initial Council Resolution C1808/150 C1312/328

#### **Review Requirements**

In accordance with the requirements of Section 10AB of the  $Dog\ Act\ 1976$ , at least once every financial year.

Current Delegations (proposed to be amended)

#### **Related Documents**

Dogs Local Law 2014

#### **Notes of Recent Alterations**

Improved wording to strengthen and clarify the delegation as being for all powers and duties of the local government under the *Dog Act 1976 (24 July 2018)* 

Specific reference to the local government incorporated in the power/duty in order to strengthen the delegation  $(9 \, August \, 2017)$ 

#### Current Delegations (proposed to be amended)



#### Instrument of Delegation

Reference Number	Act Reference	Delegate	Delegation Subject
GV1	Section 16(1) of the Graffiti Vandalism Act 2016	Chief Executive Officer	Exercise any of the local government's powers or the discharge of any of its duties under Part 3 of the Graffiti Vandalism Act 2016

#### Delegator

Council

#### Power/Duty

To exercise any of the powers and discharge any of the duties of the local government under Part 3 of the *Graffiti Vandalism Act 2016*.

#### **Conditions**

This delegation is subject to the conditions and limitations contained in the Graffiti Vandalism Act 2016.

#### **Statutory Framework**

Council is exercising its power of delegation under Section 16(1) of the *Graffiti Vandalism Act 2016* to delegate to the CEO to exercise its powers and discharge of any of its duties provided for in Part 3 of the *Graffiti Vandalism Act 2016*.

#### 16. Delegation by local government

 The local government may delegate to its CEO the exercise of any of its powers or the discharge of any of its duties under another provision of this Part.

#### Current Delegations (proposed to be amended)

#### 17. Delegation by CEO of local government

(1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under another provision of this Part other than this power of delegation.

#### 18. Notice requiring removal of graffiti

- (1) This section applies to graffiti that is -
  - (a) applied to property with the consent of the owner or occupier and;
  - (b) visible from a public place; and
  - (c) considered by the local government to be unsightly or offensive.
- (2) A local government may give a notice in writing to a person who is the owner of property or the occupier of a place on which graffiti described in subsection (1) is applied, requiring the person to ensure that the graffiti is obliterated in a manner acceptable to the local government within a time set out in the notice.

#### 25. Local government graffiti powers on land not local government property

(1) A local government may obliterate graffiti that is visible from a public place and that has been applied without the consent of the owner or occupier, even though the land on which it is done is not local government property and the local government does not have consent to do it.

#### Verification

Council Resolution C1706/131

#### **Review Requirements**

In accordance with the requirements of Section 5.46(2) of the *Local Government Act* 1995 (the Act), at least once every financial year.

#### **Related Documents**

Graffiti Vandalism Act 2016

Department of Local Government and Communities Circular No. 18-2016 'Graffiti Vandalism Act 2016'

#### Current Delegations (proposed to be amended)



#### Instrument of Delegation

Reference Number	Act Reference	Delegate	Delegation Subject
STA1	S25 of the Strata Titles Act 1985	Chief Executive Officer	Certificate of Approval

#### Delegator

Council.

#### Power/Duty

The power to issue a certificate of approval under s.25 of the *Strata Titles Act 1985*, as delegated by the WAPC s.16.1 *Planning and Development Act 2005* (Planning Bulletin 52/2009).

#### **Conditions**

Nil.

#### **Statutory Framework**

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act* 1995 to delegate to the CEO provided for in section 16.1 of the *Planning and Development Act* 2005 and as delegated by the West Australian Planning Commission (**Planning Bulletin 52/2009**) the discharge of its powers and duties provided in section 25 *Strata Titles Act* 1985.

#### Strata Titles Act 1985

#### 25 . Certificate of Commission

(1) Subject to this section, every strata plan and every plan of re-subdivision or consolidation for a strata scheme lodged for registration under this act shall be accompanied by a certificate of approval given by the commission unless the proposed subdivision, resubdivision or consolidation is exempt from the requirement of such a certificate by reason of regulations made under this section.

Current Delegations (proposed to be amended)

#### Verification

Initial Council Resolution C1409/235

#### **Review Requirements**

At Council's discretion as necessary (no statutory requirement).

#### 6.3 REVIEW OF DUST AND BUILDING WASTE CONTROL LOCAL LAW

STRATEGIC GOAL 6. LEADERSHIP Visionary, collaborative, accountable

STRATEGIC OBJECTIVE 6.1 Governance systems, process and practices are responsible,

ethical and transparent.

**SUBJECT INDEX** Local Laws

**BUSINESS UNIT: Corporate Services** 

**REPORTING OFFICER:** Legal Officer - Briony McGinty

Director Finance and Corporate Services - Tony Nottle **AUTHORISING OFFICER:** 

**PRIMARY NATURE OF** Legislative: to adopt legislative documents e.g. local laws, local

DECISION planning schemes, local planning policies

**VOTING REQUIREMENT:** Absolute Majority

**ATTACHMENTS:** Attachment A Dust and Building Waste Control Local Law !! Law

#### **OFFICER RECOMMENDATION**

#### That the Council:

- 1. has considered the information and advice in this report; and
- 2. determines that that no repeal or amendment to the Dust and Building Waste Control Local Law is required; and
- 3. determines the Dust and Building Waste Control Local Law should continue in operation.

#### **EXECUTIVE SUMMARY**

The Local Government Act ("the Act") provides that a local government may make local laws, and that any local laws made are reviewed every 8 years. The City's Dust and Building Waste Control Local Law ("Dust Local Law") is currently due for review. This report considers whether the Dust Local Law should be amended, repealed or continue in operation and recommends that the Dust Local Law continue in operation in its current form.

#### **BACKGROUND**

Section 3.16 of the Act requires that a local government must review its local laws every 8 years. The Dust Local Law was first gazetted on 24 February 2010 and came into operation 14 days later.

The Dust Local Law deals with dust (defined to include sand) and building waste. It imposes requirements in relation to stabilising dust and ensuring dust does not escape. Further, building waste must be contained within an approved receptacle. Offences are created for, for example, loads escaping from vehicles that are leaving dust generating developments and building sites. Certain dust generating developments (including extractive industries) require dust management plans. Notices to cease activity are also provided for.

Since its inception in 2010 no deficiencies with regard to the operation of the Dust Local Law have been identified. Working group meetings with key officers of the City have been held regarding the operation of the local law, and no recommendation to amend or repeal the local law resulted.

The review of the Dust Local Law has also been advertised publicly with no submissions being received.

#### **OFFICER COMMENT**

Whilst the management of dust issues associated with, for example, subdivision and extractive industries continues to be an issue within the district, the regulatory mechanisms with which to manage those issues are considered adequate and appropriate.

The Dust Local Law is achieving the purpose for which it was made, and should be retained without amendment.

#### **Statutory Environment**

The Dust Local Law is made under powers conferred by the Act and the *Waste Avoidance and Resource Recovery Act 2007* ("the WARR Act"). The procedure for making local laws is set out in Section 3.12 of the Act and regulation 3 of the Local Government (Functions and General) Regulations 1996.

Further, section 3.16 of the Act requires that every 8 years a local law is to be reviewed to determine whether or not the local government considers that it should be repealed or amended.

#### **Relevant Plans and Policies**

There are no relevant plans or policies to consider in relation to this matter

#### **Financial Implications**

There are no financial implications associated with the officer recommendation.

#### **Stakeholder Consultation**

The Dust Local Law was advertised publicly in both local and state-wide newspapers for a minimum of 6 weeks in accordance with the requirements under section 3.16(2) of the Act. No public submissions have been received.

### 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**

Alternatively, the Council could chose to repeal or amend the Dust Local Law in any number of ways. Any amendment would require drafting, advertising, and statutory procedure requirements (for example, letters to Ministers, approval and liaison with the Director General of the Department of Water and Environmental Regulation, gazettal and preparation of a compilation local law). Officers can assist with the drafting of a suitable alternative motion if required.

#### **CONCLUSION**

The statutory review process has been effectively and efficiently undertaken. No material issues have been identified. Accordingly, it is recommended that the Dust Local Law continue in operation in its current form.

#### TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If the recommended course of action is taken, no further implementation is required.

6.3 Attachment A



PERTH, WEDNESDAY, 24 FEBRUARY 2010 No. 29 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.30 PM  $_{\odot}$  STATE OF WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007

# SHIRE OF BUSSELTON

DUST AND BUILDING WASTE CONTROL LOCAL LAW 2010

24 February 2010

GOVERNMENT GAZETTE, WA

795

#### WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007 LOCAL GOVERNMENT ACT 1995

#### SHIRE OF BUSSELTON

#### DUST AND BUILDING WASTE CONTROL LOCAL LAW 2010

#### ARRANGEMENT

#### PART 1—PRELIMINARY

- 1.1 Citation 1.2 Operation
- 1.3 Application 1.4 Interpretation

#### PART 2—GENERAL CONTROL MEASURES

- 2.1 Dust control measures2.2 Building Waste control measures2.3 Escape of loads being transported

#### PART 3—DUST MANAGEMENT PLANS

- 3.1 Dust Generating Development
  3.2 Requirement for a Dust Management Plan
  3.3 Content of Dust Management Plan
  3.4 Assessing a Dust Management Plan

#### PART 4-NOTICES

- 4.1 Notice to comply
  4.2 Notice to cease activity
  4.3 Notice to prevent possible breach
  4.4 Shire may undertake requirements of notice
- 4.5 Revoking a notice

#### PART 5—OTHER OPERATIONAL POWERS

- 5.1 Obstruction of employees and others
- 5.2 Delegation5.3 Authorised person

#### PART 6-OFFENCES AND PENALTIES

- 6.1 Offences6.2 Penalties6.3 Prescribed offences
- 6.4 Prescribed notices

SCHEDULE 1—PRESCRIBED OFFENCES

24 February 2010

GOVERNMENT GAZETTE, WA

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#### WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007 LOCAL GOVERNMENT ACT 1995

#### SHIRE OF BUSSELTON

#### DUST AND BUILDING WASTE CONTROL LOCAL LAW 2010

Under the powers conferred by the *Local Government Act 1995* and the *Waste Avoidance and Resource Recovery Act 2007*, and all other powers enabling it, the Council of the Shire of Busselton resolved on 27 January 2010 to make this local law.

#### PART 1—PRELIMINARY

#### 1.1 Citation

This local law may be cited as the Shire of Busselton Dust and Building Waste Control Local Law 2009.

#### 1.2 Commencement

This local law comes into operation 14 days after the day on which it is published in the Government Gazette.

#### 1.3 Application

This local law applies throughout the district.

#### 1.4 Interpretation

(1) In this local law, unless the contrary intention appears—

Act means the Local Government Act 1995;

authorised person means a person authorised by the Shire under section 9.10 of the Act to perform any of the functions of the Shire under this local law;

building site means a site on which building works are being, or are proposed to be, undertaken;
 building waste means waste, that has the potential to become airborne, from or in connection with a building site;

building works means building works in respect of which a building licence is required under the Local Government (Miscellaneous Provisions) Act 1960;

CEO means Chief Executive Officer of the Shire:

Shire means the Shire of Busselton;

development means the development or use of any land, including-

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land; and
- (b) the carrying out on the land of any excavation or other works;

district means the district of the Shire and includes any area placed under the jurisdiction of the Shire under any written law;

dust means any visible granular or particulate material which has or has the potential to become airborne and includes organic matter and sand, but does not include smoke;

dust generating development means a development referred to in clause 3.1 of this local law; dust management plan means a plan referred to in Part 3 of this local law;

equipment means equipment, machinery or vehicles used for or in connection with the development of land;

extractive industry means an activity which involves the extraction of sand, gravel, clay, soil, rock, stone or similar substance from land, and includes—

- (a) the management of products from any of those materials when the manufacture is carried out on the land from which any of the materials so used is extracted or on land adjacent to that land; and
- (b) the storage of such materials or products;

land includes any premises, building or other structure on the land;

#### **Dust and Building Waste Control Local Law**

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#### GOVERNMENT GAZETTE, WA

24 February 2010

litter has the same meaning as given to it in section 5 of the Litter Act 1979;

occupier means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land or to perform any work in relation to any land and includes a builder or contractor;

owner has the same meaning as given to it in the Act; and

person in charge means the person on or near a site who appears to the Shire to be the person apparently in charge of a dust generating development on the site;

Regulations mean the Local Government (Functions and General) Regulations 1996; and

waste has the same meaning as in section 3(1) of the Waste Avoidance and Resource Recovery Act 2007.

- (2) Where, under this local law, a duty or liability is imposed on an owner, the duty or liability, as the case may be, is deemed to be imposed jointly and severally on each of the owner and occupier.
- (3) Where, under this local law, an act is required to be done in relation to any land, the owner and occupier of the land must each cause that act to be done.
- (4) Where, under this local law, an act is forbidden to be done in relation to any land, the owner and occupier of the land must each prevent that act from being done.
- (5) Where this local law refers to the giving of notice no particular form of notice is required but may be given in each of the ways set out in sections 9.50, 9.52 and 9.53 of the Act.

#### PART 2—GENERAL CONTROL MEASURES

#### 2.1 Dust control measures

An owner or occupier of land must take effective measures to-

- (a) stabilise dust on the land:
- (b) ensure that no dust is released or escapes from the land whether by means of wind, water or any other cause; and
- (c) notify the owners or occupiers of adjoining land in writing 48 hours prior to the commencement of any activity that has the potential to cause the release or escape of dust from the land giving details of;
  - (i) the nature of the activity;
  - (ii) the proposed time and location of the activity; and
  - (iii) the name of the person responsible for carrying out the activity and how and where that person may be contacted.

#### $2.2\;Building\;Waste\;control\;measures$

- (1) A person must not commence or continue, or permit the commencement or continuation, of building works on a building site unless—
  - (a) an Approved Receptacle is provided and maintained on the building site;
  - (b) all building waste is placed in, and kept securely in, the Approved Receptacle; and
  - (c) if the Approved Receptacle has a lid, the lid is kept securely in place at all times except when building waste is being placed in, or removed from, the Approved Receptacle.

#### (2) In this clause-

#### "Approved Receptacle" means-

- (a) a receptacle with a capacity of at least 4 cubic metres with a lid;
- (b) a wire enclosure with a capacity of at least 4 cubic metres with a lid; or
- (c) any other receptacle or container approved by the Shire or an authorised person.

#### 2.3 Escape of loads being transported

- (1) A person must not drive a vehicle carrying a load from a dust generating development or a Building Site unless effective measures have been taken to ensure that the load, or any part of it, cannot escape from the vehicle.
- (2) In this clause-

"load" includes any material or other thing used in connection with the load; and

"vehicle" has the same meaning as in the Road Traffic Code 2000.

#### PART 3—DUST MANAGEMENT PLANS

#### 3.1 Dust Generating Development

- (1) A dust generating development is a development that—
  - (a) has been authorised, or requires authorisation, under an application for subdivision approval for land exceeding an area of 5,000 square metres;
  - (b) is an extractive industry; or
  - (c) is determined by the Shire, under this clause, to be a Dust Generating.
- (2) The Shire may determine that a development which-
  - (a) is proposed to be carried out, or is being carried out; and

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(b) involves or may involve a significant risk of the release or escape of dust affecting adjoining land,

is a dust generating development.

- (3) Examples of proposed developments for the purpose of subclause (2) are those that are the subject of -
  - (a) an application for subdivision approval for land having an area of 5,000 square metres or less;
  - (b) an application for planning approval under a town planning scheme of the Shire; or
  - (c) an application for a building licence or a demolition licence.
- (4) Written notice of a determination made under subclause (2) is to be given, in whatever form the Shire considers to be appropriate, to—
  - (a) the owner or occupier of the land on which the dust generating development is to be carried out or is being carried out;
  - (b) a contractor or developer carrying out the dust generating development;
  - (c) an applicant for approval for, or in relation to, the dust generating development; or
  - (d) the person in charge.

#### 3.2 Requirement for a Dust Management Plan

- (1) A person must not commence or carry out any dust generating development unless-
  - (a) a dust management plan, in a form approved by the Shire, has been lodged with the Shire;
  - (b) the Shire has approved the dust management plan; and
  - (c) the person complies with any condition to which the approval is subject.
- (2) Subclause (1) does not apply to an existing extractive industry until a period of 6 months has elapsed from the date that this local law comes into operation.
- (3) In subclause (2)—

existing extractive industry means an extractive industry that is operating on, or has been operating before, the date on which this local law comes into operation.

#### 3.3 Content of Dust Management Plan

A dust management plan must—

- (a) specify the nature and extent of the proposed development;
- (b) identify the dust exposure risks associated with that development;
- (c) specify the measures that are proposed to be taken to address the risks;
- (d) specify targets for maximum atmospheric concentrations of dust;
- (e) specify the measures to be taken for the monitoring of dust including, where appropriate, professionally monitored dust measuring devices to be stationed at the dust generating development site;
- (f) be signed by the owner of the land which is the subject of the dust generating development; and
- (g) be given to the Shire and accompanied by whatever plans, documents or other information as the Shire may reasonably require.

#### 3.4 Assessing a Dust Management Plan

- (1) The Shire may-
  - (a) refuse to consider a dust management plan that does not comply, or in its opinion does not adequately comply, with the requirements of this Part; and
  - (b) require the owner or occupier to provide further plans, documents or other information to enable it to properly assess the dust management plan.
- (2) In assessing a dust management plan, the Shire may-
  - (a) consult with any person or body; and
  - (b) have regard to any relevant publications of a State environmental agency including-
    - (i) "Land development sites and impacts on air quality; A guideline for the prevention of dust and smoke pollution from land development sites in Western Australia" (November 1996); and
    - (ii) "Guidance for the Assessment of Environmental Factors—Prevention of Air Quality Impacts from Land Development Sites" (No. 18, March 2000).
- (3) The Shire may refuse to approve or may approve a dust management plan.
- (4) The Shire may-
  - (a) impose whatever conditions it considers appropriate in granting approval; and
  - (b) limit the period during which the approval is to be valid.

#### PART 4-NOTICES

#### 4.1 Notice to comply

- (1) This clause applies where the Shire is of the opinion that-
  - (a) an owner or occupier has not complied with clause 2.1(a) or (b);

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- (b) dust has been released or escaped from the owner's or occupier's land; or
- (c) a person has not complied with a term or condition of an approved dust management plan.
- (2) Where the Shire is of the opinion referred to in subclause (1), it may give to the owner or occupier of the land, or the person who has not complied, a notice requiring the owner or occupier, or other person, to do one or more of the following—
  - (a) comply with clause 2.1(a) or (b);
  - (b) clean up and properly dispose of any released or escaped dust;
  - (c) comply with the terms and conditions of the approved dust management plan;
  - (d) clean up and make good any damage resulting from the released or escaped dust; and
  - (e) take effective measures to stop any further release or escape of dust.
- (3) The requirements set out in a notice issued under subclause (2) must be complied with—
  - (a) where no other time is specified in the notice—within 24 hours of the notice being given to the owner or occupier:
  - (b) within such other period as is specified in the notice; or
  - (c) immediately, if the notice so specifies

#### 4.2 Notice to cease activity

- (1) This clause applies where the Shire is of the opinion that-
  - (a) dust has escaped or has been released as the result of an activity undertaken on land or as a consequence of the use of equipment on land; or
  - (b) as a result of the failure of a person to comply with a term or condition of an approved dust management plan, there is a risk that dust may be released or may escape from the land.

(2) Where the Shire is of the opinion referred to in subclause (1), it may give a notice to the owner or occupier of the land, the person responsible for complying with the approved dust management plan or the person in charge, as the case may be, requiring that, for the period specified in the notice—

- (a) the activity or use of the equipment on the land cease immediately; or
- (b) any development on the land under the dust generating development cease immediately.

#### 4.3 Notice to prevent possible breach

Where the Shire is of the opinion that dust may be released or escape as a result of an activity which is likely to be carried on from any land, the Shire may give to the owner or occupier of the land, or the person in charge, a notice prohibiting the activity from being carried on except in accordance with the conditions that are specified in the notice.

#### 4.4 Shire may undertake requirements of notice

If a person fails to comply with a notice under clause 4.1 or 4.3, the Shire may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

#### 4.5 Revoking a notice

- (1) The Shire may revoke a notice that is given under this local law to the owner or occupier of any land, or any other person, if the owner, occupier or other person satisfies the Shire, within 48 hours or within any other period that is specified in the notice from the date of giving of the notice, that—
  - (a) he or she was not responsible for the conduct in respect of which the notice was given under clause 4.1, or the activity in respect of which a notice was given under clause 4.2, as the case may be:
  - (b) he or she took all reasonable precautions to prevent the conduct or activity, as the case may be; and
  - (c) where another person was responsible for the conduct or activity, he or she identifies the person responsible for the conduct or activity sufficiently to enable the notice to be issued to that person.
- (2) Subclause (1) is not to apply where a notice is issued to which clause 4.1(2)(c) applies.

#### PART 5—OTHER OPERATIONAL POWERS

#### 5.1 Obstruction of employees and others

A person must not prevent or obstruct an authorised person or employee of the Shire from carrying out his or her duties under this local law.

#### 5.2 Delegation

- (1) The Shire may delegate to the CEO, in accordance with section 5.42 of the Act, the exercise of any of its powers, or the discharge of any of its duties, under this local law.
- (2) The CEO may delegate to an employee of the Shire, in accordance with section 5.44 of the Act, the exercise of any of his or her powers, or the discharge of any of his or her duties, under this local law.

#### 5.3 Authorised person

The Shire may authorise any person, or class of persons, in accordance with section 9.10 of the Act, to exercise any of the powers, or discharge any of the duties, of the Shire under this local law.

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#### PART 6-OFFENCES AND PENALTIES

#### 6.1 Offences

Any person who-

- (a) fails to comply with a notice issued under this local law;
- (b) fails to comply with a term or condition of an approved dust management plan;
- (c) fails to do anything required or directed to be done under this local law;
- (d) does anything which under this local law the person is prohibited from doing; or
- (e) contravenes any provision of this local law, commits an offence.

#### 6.2 Penalties

A person who commits an offence under this local law is to be liable to-

- (a) a penalty not exceeding \$5,000 and not less than-
  - (i) in the case of a first such offence, \$500;
  - (ii) in the case of a second such offence, \$1,500; and
  - (iii) in the case of a third or subsequent offence, \$3,000, and
- (b) if the offence is of a continuing nature, an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

#### 6.3 Prescribed offences

- (1) An offence against a clause of this local law specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

#### 6.4 Prescribed notices

For the purposes of this local law-

- (a) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (b) a form of the infringement with drawal notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

# $Schedule~1\\ PRESCRIBED~OFFENCES$

Clause	Description	Modified Penalty \$	
2.1	Failure to take effective measures to—		
	(a) stabilise dust; or	\$400	
	(b) ensure no dust is released or escapes from the land; or	\$400	
	(c) notify the owners or occupiers of adjoining land as required.	\$400	
2.2(1)	(a) Failure to provide an approved receptacle or enclosure or approved container on a building site.	\$400	
	(b) Failure to place in, and secure, all building waste in an approved receptacle.	\$400	
	(c) Failure to keep secure lid of approved receptacle.	\$400	
2.3	Failure to take effective measures to prevent a load or any part of it escaping.		
3.2	Commencing or carrying out a dust generating development—		
	(a) without approval; or	\$400	
	<ul><li>(b) contrary to a condition of approval.</li></ul>	\$400	
4.1	Failure to comply with a notice.	\$400	
4.2(2)	Failure to comply with a notice to cease activity or development.		
4.3	Failure to comply with a notice to prevent a possible breach.	\$400	
5.1(2)	Preventing or obstructing an authorised person or employee from carrying out his or her duties.	\$400	

Dated 3rd February 2010.

The Common Seal of the Shire of Busselton was affixed by authority of a resolution of the Council in the presence of—

IAN STUBBS, Shire President. MATTHEW SMITH, Chief Executive Officer.

Consented to-

KEIRAN McNAMARA, Chief Executive Officer, Department of Environment and Conservation.

Dated: 27th January 2010.

#### 7. GENERAL DISCUSSION ITEMS

#### 7.1 POLICY FRAMEWORK

#### RECOMMENDATION

That the Policy and Legislation Committee note receipt of the Policy Framework for information and discussion.

Policy making is an important function of local government. Policies guide decision making and therefore affect all those who may be impacted by a decision. The Governance Services Review (GSR) undertaken in late 2017 made three key recommendations in relation to Council Policies:

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

In response to recommendation 3 officers developed a 'Corporate Governance Framework' to provide a governance structure and guidance for staff in the development of policies, practices and procedures. This framework was provided to Council, via the Policy and Legislation Committee, in favour of a Council policy as recommended by the GSR, given the need for such a document to evolve over time. Council noted and supported this as per the part resolution below (C1805/084):

3. Notes and supports the continued development of a Corporate Governance Framework in a form similar to that presented at Attachment B.

Importantly the framework sets out the purpose of a Council policy as a high level strategic document setting out the general approach that Council intends in relation to a particular issue; that is the 'what' and the 'why' as opposed to the 'how'. The 'how' or the more operational detail should instead, in most instances, be set out in level 2 practice documents, currently termed Staff Management Practices.

Since that time the framework, now referred to as the Policy Framework, has been used to guide the City's policy review process as recommended by the GSR. Through that experience, officers have (as expected) identified the need to amend and additionally expand the Policy Framework, principally to clarify the structure / hierarchy of documents with respect to level 2 documents, and also to provide additional guidance in relation to the development and review of a Council policy or operational practice documents.

#### **Document Structure**

The original framework classified policy documentation (in the broad sense of the word policy) as per the following diagram:



While Council policies are generally understood (with that understanding growing), the understanding and use of level 2 documents requires clarification. Staff Management Practices (SMP) is considered to be too narrow a term, with practices related to staff management one type of an operational practice.

Operational Practices are generally internal documents which provide direction to staff about operational matters. While some are directed towards human resource management practices, there are also others which provide guidance to staff about the how in relation to an operational function.

Additionally, as we review Council policies and remove from these the 'how' (as per the framework intent), there is a need to develop operational practices which contain the how and support Council policies. In these instances operational practices may be also available externally.

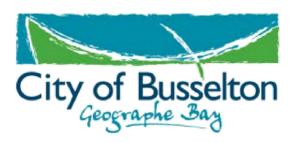
With this in mind, officers have further reflected on the purpose of a level 2 document and the need to broaden its scope. The amended Policy Framework therefore now sets out level 2 documents as operational practices (as opposed to SMP); being documents which set direction as the implementation (the how) of a policy or the achievement of operational objectives. These documents set out practice steps to be followed as well as employment obligations and responsibilities.

#### Council Policy / Operational Practice Development and Review

Additionally the amended Policy Framework sets out further guidance for staff in relation to the development and review process associated with a Council policy or operational practice and sets approximate timeframes for this, based on experience and feedback as to what is achievable. It should be noted that the timeframe for development or review of a Council policy is X weeks from commencement to Council adoption. It is hoped that this will reduce over time, as Council policies are brought into line with the Policy Framework.

While the amendments to the Policy Framework are administrative in nature and do not impact on the form or function of a Council policy, the revised framework is provided to the Policy and Legislation Committee for information.

**Policy Framework** 



## **CITY OF BUSSELTON**

## **POLICY FRAMEWORK**

## Policy Framework

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#### Policy Framework

#### 1. Introduction

Policies and practices support the achievement of quality outcomes and reduce both operational and strategic risk by establishing standards and guiding decision making. The principles outlined in policy documentation are shaped by the strategic objectives as set out in the City's Strategic Community Plan, by legislative obligations, and by general standards of good governance and management.

The purpose of the City of Busselton Policy Framework (the Framework) is to provide a structure for the development and maintenance of documents intended to guide the City's approach to decision making, namely Council Policies, Operational Practices, Work Processes and Guidelines (Policy Documents).

A key objective of the Framework is to ensure that these documents are relevant, consistent, accessible and user-friendly.

#### 2. Strategic Context

The Framework supports the achievement of Key Goal Area 6 of the City's Strategic Community Plan 2017 and specifically the Community Objective 6.1: Governance systems, processes and practices are responsible, ethical and transparent.

#### 3. Framework Structure

"Council sets the **policy**, which is implemented by the organisation through appropriate management **practices** and where needed, detailed work **processes**".

A clear policy framework provides a structure and process for the initiation, development, adoption and review of Council's Policy Documents. The City of Busselton policy framework consists of the following document types:

A *Council Policy* provides a strategic statement of Council's direction.

A *Practice* sets guidance and direction for operational activities, and may apply to a specific activity or be more general in nature.

A Work Process is a step by step instruction.

A *Guideline* is a supporting information or reference document, either developed external to the organisation or from within.

#### Policy Framework



• Council Policies underpin decision making and help the City to comply with relevant legislation, standards and community expectations, assist the City to attain its strategic goals, promote operational efficiency; and reduce risk.

## Practices

• Operational Practices set direction as to the implementation (the how) of a policy or the achievement of operational objectives. They set out practice steps to be followed as well as employment obligations and responsibilities. OP's which provide organisation wide direction must be approved by the CEO, with all others requiring at minimum Director sign off.

## Work Processes

• Work Processes provide step by step instructions on how to carry out a task. Work processes aren't always needed, but an example would be a finance procedure that cannot be deviated from.

#### Guideline

 Guidelines are supporting information or reference documents, developed either from within the organisation or externally.

#### **Policy Framework**

#### 4. Council Policies

Council policies are strategic in nature. They guide the direction of the organisation in line with the community vision and aspirations. Council policies provide a firm basis or reference point for Elected Members and City Officers to make reasoned and consistent strategic decisions.

As key guiding documents, it is important that Council policies are developed and reviewed with a high level of consultation and input from stakeholders, both internally and, where relevant, externally. The Senior Management Group (SMG), Governance Services and the Responsible Officer are all required to drive this process.

A *Responsible Officer* is appointed by the Director or Business Unit Manager to lead and oversee the review process of an existing Council policy or the development of a new policy.

The following is a broad overview of the development and review process to be followed. This process is outlined in more detail in Attachment A and Attachment B:

- 1. SMG to determine the strategic parameters of a new policy or existing policy review.
- Responsible Officer is to develop or review the policy, consulting with the Policy Working Group, Managers Group and other key stakeholders as required.
- 3. Draft policy is provided to the Senior Managers Group for comment and feedback.
- Finalised policy and corresponding report is incorporated into a Policy and Legislation Committee agenda.
- 5. Policy as recommended by the Policy and Legislation Committee is presented to the Council for adoption.

#### 4.1 Policy and Legislation Committee

The Policy and Legislation Committee is established for the purposes of assisting Council to undertake it 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.

It is the responsibility of the Committee to make recommendations on the development and review of the City's policies.

The membership of the Committee is made up of 5 Elected Members and meets on a monthly basis.

#### 4.2 Policy Working Group

The Policy Working Group is an informal consulting group facilitated by Governance and made up of City Officers from all four directorates.

#### 7.1 Attachment A Policy Framework

The role of the Policy Working Group is to assist in the review of Council policies and provide feedback in line with the General Principles outlined in Section 8.

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Officers who sit as members have been identified within the organisation as being well versed and experienced in relation to the policy development process and/or an end user or implementer of a significant number of Council policies.

#### 4.3 Writing Policies

Separating a policy and related practice or procedure improves readability and keeps the policy current. While there will be exceptions, a Council policy should outline the 'what' and the 'why' and should not detail the 'how'. Separating the procedure from the policy is the City's preferred position.

In general, there is no need to amend a policy if there are changes to operational aspects or practices, but the intent of the policy remains unchanged.

#### 4.3.1 Template

A Council policy should be prepared using the approved organisational template and contain the following sections:

- a. Purpose
- b. Scope
- c. Definitions
- d. Strategic Context
- e. Policy Statement
- f. Related Documents
- g. Responsibility and review information.

The template contains explanatory text under each of the above mentioned sections to assist the Responsible Officer in developing a clear and concise Council policy.

#### 4.3.2 Aligning with Strategy

A Council policy must align with Council's strategic direction, priorities, and relevant legislative, regulatory or organisational requirements. A Council policy should, as a general rule, only refer to Council's strategic priorities or legislation and not duplicate their content.

#### 4.4 Review of Existing Policies

The policy review process for an individual Council policy may take up to 9 weeks from initial consideration by SMG to adoption at a Council Meeting.

Attachment A provides a detailed process and an approximated timeline for the review of policies.

**Policy Framework** 

#### 4.5 Policy Review Schedule

The Policy Review Schedule (the Schedule) outlines the timeline for the policy review process for existing Council policies. The Schedule is a live document managed by Governance Services and is located in the City's Records Management System, ECM (Doc Set ID 3828356).

Governance Services will coordinate the Schedule, identifying the policies to be reviewed each month based upon the last review date, a general understanding of the policy's continuing relevance, the format or structure of the currently policy and or recent changes warranting a review.

#### 4.6 Development of New Policies

The need for a new Council policy may arise through a new strategic direction, the need for improved organisational efficiencies, in response to a community need or a changing political, social or economic environment.

Attachment B provides a detailed process and an approximated timeline for the development of new policies.

Policy Framework

#### 5. Operational Practices

Operational Practices (OP) are developed for administrative purposes and set direction in relation to an organisational practice, i.e. how the organisation will approach an operational matter, obligations and responsibilities of employees, and/or how a Council directive (generally captured in a Council policy) is to be implemented. While OP's may contain some broad procedural aspects, they are not as detailed as work processes. OP's may also capture and provide corporate knowledge.

OP's may be applicable to the whole organisation or to defined operational objectives and staff involved in the achievement of those objectives. The degree to which consultation and input from stakeholders will be sought will depend on the subject matter of the OP. The Policy Working Group may be used as a consultation platform as appropriate.

A *Responsible Officer* is appointed by the Director or Business Unit Manager to lead and oversee the review process of an existing OP or the development of a new OP. OP's which are applicable to the whole or a significant portion of the organisation are approved by the CEO, with OP's applicable to more defined operational areas and functions approved by the relevant Director.

The following is a broad overview of the development and review process to be followed. This process is outlined in more detail in Attachment C:

- Responsible Officer is to develop or review the OP, consulting with the Policy Working Group and other with key stakeholders as required.
- 2. OP is provided to the Managers Group for comment and feedback.
- 3. Finalised OP is incorporated into an SMG agenda, with the SMG to provide feedback and make recommendations to the CEO / relevant Director about the OP.
- 4. OP is adopted by the CEO / relevant Director.

#### 5.1 Writing Operational Practices

OP's will generally have an internal focus. OP's may however be externally available where they directly link or support the implementation of a Council policy.

An OP should be prepared using the approved organisational template and must contain the following elements:

- a. Purpose
- b. Scope
- c. Definitions
- d. Practice
- e. Responsibilities

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- f. Enabling Legislation, Policy, Strategy, Relevant Documentation
- g. Review and Approval

#### 5.2 Development and Review

<u>Attachment C</u> provides a detailed process for the development of new and review of existing Operational Practices.

The development of an OP may be initiated through a number of mechanisms, including:

- > The review of a Council policy with a significant amount of instructional elements. The separation of strategic and instructional elements will necessitate the development of an OP;
- > The development of a new Council policy that requires a corresponding OP;
- > The requirement to, or where it has been identified as beneficial to, document an organisational practice in relation to a matter. This will generally be to aid in:
  - · setting direction which ensures understanding and consistency of approach;
  - to educate employees and / or the broader community;
  - to capture and ensure the continuation of corporate knowledge;

#### **Policy Framework**

#### 6. Work Processes

A Work Process (WP) is the general term given to documents that set out detailed internal operating steps or instructions to be followed. They include OSH documents such as Safe Work Method Statements.

WP's may take a variety of formats and generally relate to a specific process or task. They are created and approved by operational line management, i.e. a coordinator or supervisor as appropriate.

WP's are typically used where there are strict operational requirements or steps that need to be followed, with employees otherwise expected to work within regulations, standards and operational practice requirements to apply their skills, knowledge and experience to the performance of their duties.

#### 7. Guidelines

Guidelines is the term for documents that are advisory in nature. Guidelines provide information designed to help officers make informed decisions as to the best approach to adopt and/or inform the community of best practice.

Guidelines may take a variety of formats and are created for the purpose of providing advice and guidance. They do not generally outline obligations, unless a statutory or higher level document requires them to be followed.

Guidelines may sit internally or externally to the organisation.

#### **Policy Framework**

#### 8. General Guidelines

All Policy Documents should be developed and reviewed in accordance with the following general principles:

- a. Be presented in a common format using the approved template as provided
- b. Be written concisely and in plain understandable language, adhering to the conventions listed at 8.1
- c. Clearly identify the organisational area responsible for oversight and review

#### 8.1 Policy Writing Conventions

Members of the community, Elected Members and City staff rely on Policy Documents for essential information, so it's important to write clearly, concisely and simply. To help you achieve this, write with the reader in mind and follow these tips:

- · use short, easy-to-read sentences in plain English to express each principle, action, or idea;
- be as concise as possible to ensure the purpose and key aspects of the Policy Document are not lost.
- while some background may be useful the Policy Document needs to set out a position. The
  corresponding report or memo should provide the bulk of the background, reasoning and
  justification for the review or development of the Policy Document;
- · each principle, action or idea should be numbered;
- use sub-numbering when listing a number of factors associated with an idea;
- use language that is positive and inclusive, such as 'their' not 'he' or 'she', and 'chair' not
  'chairman':
- use terminology consistently throughout the document and any supporting documents;
- use commonly understood language rather than jargon which requires specialist knowledge and minimise the use of defined terms;
- when using defined terms ensure they are in Sentence Case.
- explain in full what acronyms mean when using them for the first time. Acronyms should not be referred to as a defined term;
- when first mentioned, the full title of legislation is in italics (Local Government Act 1995), but not when shortened, e.g. 'the Act';
- strategies, standards and other Policy Document titles are not italicised, e.g. City of Busselton
   Strategic Community Plan 2017.

#### **Policy Framework**

#### 8.2 Monitor and Review

Directors are responsible for ensuring Council policies and OP's are reviewed every 3 years, or earlier if appropriate. Governance Services will assist in facilitating this review process.

The review of Work Processes and guidelines will be determined and managed by the relevant operational management.

#### 8.3 Governance Review

Council policies and OP's will be reviewed by Governance Services, either periodically or as part of the formal review process. The focus of these reviews will be:

- a. Consistency with regard to language, style and format;
- Relevance in terms of new approaches that may have superseded previously endorsed positions within existing Council policies or OP's;
- c. Duplication with respect to sections of policy documents that unnecessarily duplicate other policies, OP's, plans, local laws and legislation; and
- d. Content with respect to alignment to this Framework

### 9. Policy Register

In accordance with the processes outlined in Attachments A through to Attachment C, approved Council policies and OP's are to be submitted to Governance Services in electronic format for placement of the City's website or Intranet site as appropriate.

Governance Services will register the approved documentation in ECM and will maintain a register of documents to assist in the review process.

#### 10. Related Documentation

Council Policy Template - ECM Doc Set ID 328662

Operational Practice Template - ECM Doc Set ID 3282663

Work Procedures Template - TBC

## Policy Framework

# 11. Attachment A –COUNCIL POLICY DEVELOPMENT AND REVIEW PROCESS

PRE REVIEW	$\triangleright$	Governance Services identify the policy for review
		and communicate this to the relevant Director; or
	$\triangleright$	Initial identification of a need to develop a Council
		policy.
	>	The Director or Business Unit Manager is to identify
		the most appropriate staff member to be appointed
		the Responsible Officer for the development / review
		of the policy.
	>	The new policy intent / current policy is emailed to
		SMG for a high level strategic review. Comments and
		feedback on the intent / policy are due back to
		Governance Services at the next SMG or Agenda
		Settlement meeting.
COMMENCE REVIEW		
GOVERNANCE SERVICES	>	Provide Policy Template, Policy Framework and
		overview of development / review process (as
		detailed here) to Responsible Officer and relevant
		Business Unit along with current policy (if a review)
		and SMG comments
	$\triangleright$	Set Policy Working Group meeting and send invites to
		members and any relevant/additional stakeholders
DURATION: 4 WEEKS		
RESPONSBILE OFFICER AND GOVERNANCE SERVICES	>	Responsible Officer to provide Governance Services a
		draft of the new / reviewed policy
	>	Governance Services to conduct initial review of draft

Policy Framework

GOVERNANCE SERVICES	> Governance services to distribute drafted policy to
	Policy Working Group (PWG) in preparation of
	meeting
	Governance services to distribute draft policy to
	Management group for comment
	Provide both groups with cut-off date to provide
	feedback
POLICY WORKING GROUP	➤ Meeting is held – Group commentary and feedback is
	collated and provided to Responsible Officer
	Commentary and feedback received from
	Management Group is collated and provided to the
	Responsible Officer
DURATION: 2 WEEKS	
RESPONSIBLE OFFICER	➤ Incorporate feedback from PWG and Management
	Group as necessary.
	Finalise policy review and prepare report for Policy
	and Legislation Committee Meeting by the relevant
	deadline
	<ul> <li>Refer to the published Policy and Legislation</li> </ul>
	Committee Meeting Schedule
DURATION: 2 WEEKS	
SMG	> Review of P&L Reports undertaken through the
	Agenda Settlement process.
	Refer to the Agenda Settlement/SMG Meeting
	Schedule
POST AGENDA SETTLEMENT	➤ Any suggested/required changes are communicated
	to the Responsible Officer by Governance Services
	Changes are made, clarified, corrected by Responsible
	Officer as requested. P&L Report and policy is
	finalised
	illulised

Policy Framework

	Governance pre	pare and publish final Policy and
	Legislation Com	mittee Meeting Agenda
DURATION: DEPENDENT ON POLICY A	LEGISLATION COMM	ITTEE SCHEDULE
POLICY AND LEGISLATION COMMITTEE	> Report and police	cy are considered by Committee with
	recommendatio	ns made to Council
REFER TO THE COUNCIL MEETING SCH	DULE	
COUNCIL	> Council conside	rs committee recommendation and
	adopts (or other	rwise) the policy
POST COUNCIL MEETING	> Governance upo	date the Policy on the City's website,
	review and upda	ate schedule and prepare summary
	for Staff Briefing	g of key changes/important aspects to
	note	
	Business Unit M	anager is responsible for
	communicating	the policy changes to staff, including
	at the next Dire	ctorate meeting.
	>	

# 12. Attachment D – OPERATIONAL PRACTICE DEVELOPMENT AND REVIEW PROCESS

PRE DEVELOPMENT	<ul> <li>Governance to provide OP Template, Policy</li> </ul>
	Framework and overview of development process (as
	detailed here) to Responsible Officer
COMMENCE DEVELOPMENT	
RESPONSIBLE OFFICER	> Drafts the OP, in consultation with relevant
	Coordinator and Business Unit Manager, potential
	users of the OP (as many as practicable) and the
	Policy Working Group if required
DURATION: 4-6 WEEKS	
MANAGER	<ul> <li>Circulates the OP to the Management Group for</li> </ul>
	feedback
DURATION: 2 WEEKS	
MANAGER PESPONSIPLE OFFICER	➤ Incorporates feedback from Management Group
RESPONSIBLE OFFICER	Provides the OP to Director for review
DURATION: 1 WEEK	
MANAGER RESPONSIBLE OFFICER	> Incorporates feedback from Director
RESPONSIBLE OFFICER	Provides the OP to Governance to include in an
	agenda for SMG
DURATION: 1 WEEK	
DIRECTOR	Seeks the feedback of SMG and amends accordingly
	➤ Approves the OP / Seeks CEO approval of OP
	<ul> <li>Provides final version to Governance Services to load</li> </ul>
	to the intranet

7.1 Attachment A Policy Framework

prepares a summary of key elements for next Staff Briefing	POST DEVELOPMENT	
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#### Policy Framework

### 13. Attachment E – Example Timeline of Policy Review Process

Policy Name	e	Nominated Responsible Officer (RO)	SMG RECEIVE POLICY & PROVIDE COMMENT AT NEXT AGENDA SETTLEMENT OR SMG MEETING	REVIEW PERIOD COMMENCES FOR RO	RO PROVIDES DRAFT POLICY TO GS FOR DISTRIBUTION TO PWG AND MANAGEMENT GROUP	PWG MEETING	DRAFT P&L REPORT DUE	AGENDA SETTLEMENT (REVIEW OF P&L REPORTS AND POLICY)	FINAL P&L AGENDA	P&L MEETING	COUNCIL MEETING
Council Poli	cy 123	John Smith	ТВА	ТВА	TBA	TBA	ТВА	ТВА	ТВА	TBA	ТВА

Governance Services email SMG with policy for review and request comments are provided back at the next Agenda Settlement or SMG Meeting

1 week

SMG provide comments back to GS. GS provide policy for review and any SMG comments to RO to commence review period

4 weeks

RO provides GS with draft policy for initial review

1 week

GS distributes draft policy to PWG and Management Group to provide comments back. PWG is held. Comments from PWG and Management Group are due

2 weeks

RO collates feedback into policy and finalises with report into InfoCouncil

2 weeks

Final P&L Agenda is distributed (review can occur at either Agenda Settlement or SMG)

1 week

P&L Committee Meeting

2 weeks

Council Meeting

Schedule TBA

#### 7.2 ELECTED MEMBERS CORPORATE ATTIRE

#### **RECOMMENDATION**

That the Policy and Legislation Committee further discuss Corporate Attire provisions contained within the Fees, Allowances and Expenses for Elected Members Council Policy to consider the practical impacts of the recent amendments.

The following Corporate Attire provisions came into force as of 1 July 2019.

- 5.25 Upon election or re-election, Elected Members will be entitled to the following business attire:
  - a. Business suit (male 2 x Trousers and 1 x Jacket)
  - b. Business suit (female 2 x Skirt/Dress/Pant and 1 x Jacket)
  - c. Business shirt / blouse x 3
  - d. Corporate (City branded) casual / light weight fleecy jacket x 1
  - e. Corporate (City branded) polo top x 1
  - f. Corporate (City branded) tie / scarf x 1
  - g. Business shoes x 1 pair (up to a value of \$150)
- 5.26 Elected Members will be reimbursed reasonable costs associated with the dry cleaning and maintenance of issued business attire.
- 5.27 With the exception of business shoes, all items of business attire must be purchased from the City's approved provider.
- 5.28 All items of business attire which are branded with the City of Busselton's logo should be returned to the City on expiry of office

Prior to these provisions coming into force the relevant policy provided Elected Members with a range of branded corporate attire (with City logo) on being elected and an additional amount of \$750pa for the purchase of business attire for each year of the election term.

Branded corporate attire consisted of:

- a. corporate suit (male Trousers and Jacket);
- b. corporate suit (female Skirt, Dress, Pants and Jacket);
- c. corporate shirts/blouses etc.;
- d. casual/Light weight Fleecy Jacket;
- e. polo top;
- f. City tie/scarf.

#### Business attire was outlined as:

- a. business attire (which may consist of a suit, jacket and shirts/blouses);
- b. one pair of shoes (up to \$150);
- c. dry cleaning and maintenance of corporate and business attire.

After reviewing the policies of other local governments with more limited entitlements to the provision or reimbursement of corporate / business attire or expenses the Committee requested that officers amend the Policy and the amendments were ultimately approved by Council, effective 1 July 2019.

With the new provisions having come into force however, questions have arisen with regards to the flexibility and clarity of the provisions, which officers feel warrant further discussion with the Committee.

- 8. <u>NEXT MEETING DATE</u>
- 9. <u>CLOSURE</u>