



Policy and Legislation Committee Agenda

28 August 2018

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city@busselton.wa.gov.au

CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 28 AUGUST 2018


TO: THE MAYOR AND COUNCILLORS

NOTICE is given that a meeting of the Policy and Legislation Committee will be held in the Committee Room, Administration Building, Southern Drive, Busselton on Tuesday, 28 August 2018, 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

22 August 2018

CITY OF BUSSELTON

AGENDA FOR THE POLICY AND LEGISLATION COMMITTEE MEETING TO BE HELD ON 28 AUGUST 2018

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1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

2. ATTENDANCE

Apologies

3. PUBLIC QUESTION TIME

4. DISCLOSURE OF INTERESTS

5. CONFIRMATION AND RECEIPT OF MINUTES

5.1 Minutes of the Policy and Legislation Committee Meeting held 24 July 2018

RECOMMENDATION

That the Minutes of the Policy and Legislation Committee Meeting held 24 July 2018 be confirmed as a true and correct record.

6. REPORTS

6.1 REVIEW OF COUNCIL POLICY WASTE MANAGEMENT FACILITY AND PLANT RESERVE - MANAGEMENT OF END OF YEAR POSITION

SUBJECT INDEX:	Council Policies
STRATEGIC OBJECTIVE:	Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Governance
REPORTING OFFICER:	Manager Financial Services - Kim Dolzadelli
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Proposed Policy Waste Management Facility and Plant Reserve ↓ Attachment B Current Policy Waste Management Facility and Plant Reserve - Management of end of year position ↓

PRÉCIS

This report presents a revised 'Waste Management Facility and Plant Reserve' policy (Attachment A) (the Policy) for Council approval, with the current policy having been amended as part of the City's overall review of its Council policies, having regard to the recommendations of the Governance System Review (GSR) carried out by Mr John Woodhouse in 2017.

The Policy, which has been moved into the new policy template and refined to remove operational level detail, is considered to be of continuing relevance and importance and is therefore recommended for Council approval.

BACKGROUND

A policy in relation to the long term funding of waste management activities for the district was originally adopted in March 2013, with the policy establishing a commitment that any waste related surplus/deficit would be transferred to or from the Waste Management Facility and Plant Reserve. It was recognised that waste management would increasingly require effective long term planning, and that the ability to retain surplus funds from waste management fees, charges and activities was important to pay for future costs, therefore reducing the burden on future ratepayers. The policy was reviewed in March 2015 with changes made to recognise that, as per the Long Term Financial Plan (LTFP), funding for new and replacement plant and equipment required by waste services would be funded by the reserve.

The long term funding of waste management remains an issue of strategic significance and the City's LTFP continues to provide for the waste management funding and expenditure to be reconciled to and from the reserve. Retention of a policy maintaining this as a strategic direction is therefore recommended.

STATUTORY ENVIRONMENT

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

RELEVANT PLANS AND POLICIES

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

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

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

FINANCIAL IMPLICATIONS

Adoption of the Policy presents no additional financial implications.

Long-term Financial Plan Implications

Adoption of the Policy presents no additional long term financial plan implications.

STRATEGIC COMMUNITY OBJECTIVES

The proposed policy links to Key Goal Area 3 – Environment, and Key Goal Area 6 - Leadership, of the City's Strategic Community Plan 2017 and specifically the following Community Objective/s:

3.2: Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations;

6.4: Assets are well maintained and responsibly managed.

RISK ASSESSMENT

There are no risks identified of a medium or greater level associated with the Officers recommendation with the policy simply reiterating and maintaining Council's current position for the long term funding of waste management.

CONSULTATION

No specific consultation was undertaken or considered necessary in relation to the review of the Policy.

OFFICER COMMENT

As outlined in the Background section of this report, the purpose of the Policy is to set out a strategic direction from Council for the long term funding of waste management activities within the district and, where identified, regionally.

The Policy maintains the current policy position that all revenues derived from waste management fees and charges are to be retained in the Waste Management Facility and Plant Reserve (WMFPR) for the purpose of undertaking all facets of waste management, with a consolidated position of the City's waste management activities to be calculated at year end and any surplus to be transferred to the WMFPR or any deficit to be transferred from the WMFPR.

The Policy has been amended in accordance with the recommendations of the GSR, with operational detail in relation to the management of the reserve removed, specifically the listing of expenditure and revenue items transferred to and from the reserve. The Policy instead states that all revenue derived from waste management fees and charges will be retained in the WMFPR and that the reserve will be used for all facets of waste management.

CONCLUSION

The Policy updates the current 'Waste Management Facility and Plant – Management of end of year position' policy and in doing so maintains Council's commitment to its current approach of sustainably managing the long term funding requirements for waste management.

OPTIONS

Council could decide not to adopt the Policy and instead choose to take a different position / approach in relation to waste management funding and operation of the Waste Management Facility and Plant Reserve. Council could also require further amendments to be to the Policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The new policy will be effective as of its adoption by Council.

OFFICER RECOMMENDATION

That the Council adopts the revised Waste Management Facility and Plant Reserve policy as per Attachment A, to replace the current policy (Attachment B).

COUNCIL POLICY


City of Busselton
Geographic Bay

Council Policy Name: Waste Management Facility and Plant Reserve

Responsible Directorate: Finance and Corporate Services

Version: Proposed

1. PURPOSE

- 1.1. The purpose of this Policy is to outline a policy position with respect to the long term funding of waste management activities for the district to ensure that both current and future generations share the costs of waste management across the City.

2. SCOPE

- 2.1. This Policy is applicable to the funding of all facets of waste management which includes the development and rehabilitation of waste disposal sites both within the district and regionally, acquisition of waste plant and equipment, and any other waste management activities that may include (but not be limited to) contaminated sites within the district.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council policy entitled "Waste Management Facility and Plant Reserve"

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Goal Area 3 – Environment and Key Goal Area 6 – Leadership of the City's Strategic Community Plan 2017, and specifically the following Community Objective/s:
 - a. 3.2: Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations;
 - b. 6.4 Assets are well maintained and responsibly managed.

5. POLICY STATEMENT

- 5.1. Council recognises the significance of Waste Management to the district and the importance of ensuring effective long term financial planning.
- 5.2. It is the position of the Council that Revenues derived from Waste Management Fees and Charges be retained in the Waste Management Facility and Plant Reserve (WMFPR) for the purpose of all facets of waste management including development and rehabilitation of waste disposal sites both within the district and regionally, acquisition of waste plant and equipment and any waste management activities that may include (but not be limited to) contaminated sites within the district.
- 5.3. At the end of each financial year the consolidated position of the City's waste management activities will be calculated and:

Waste Management Facility and Plant Reserve
Page 1 of 2

6.1 Attachment A Proposed Policy Waste Management Facility and Plant Reserve

- a. where total revenues exceed total expenditure any surplus is to be transferred to the WMFPR;
or
- b. where total expenditure exceeds total revenues any deficit is to be transferred from the WMFPR.

5.4. This policy shall be applied by the Finance & Corporate Services Directorate, under the evidence of the Engineering & Works Services Directorate.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. Local Government Act 1995, section 6.11. "Reserve accounts"
- 6.2. Waste Avoidance and Resource Recovery Act 2007.

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	25 March 2015	Resolution #	C1503/069

6.1 Attachment B

Current Policy Waste Management Facility and Plant Reserve -
Management of end of year position

Last updated 25/03/2015

007	Waste Management Facility and Plant Reserve – Management of year end position	V2 Current
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1. PURPOSE

The purpose of this policy is to ensure that all funds rated or charged from the City's Waste Management activities are used for the sole purpose of waste management and are transferred to and from the Waste Management Facility and Plant Reserve.

2. STATEMENT

Any financial year-end surplus or deficit pursuant to the City's consolidated waste management activities is retained for future waste management purposes via transfers to/from the Waste Management Facility and Plant Reserve.

In any given year the total Waste related revenues received and/or expenditure incurred can vary. In years where total revenues exceed total expenditure an operating surplus results or where total expenditure exceeds total revenues an operating deficit results.

This policy seeks to ensure that any waste related surplus/deficit is transferred to or from the Waste Management Facility and Plant Reserve. The basis of this is to ensure that any surplus and/or associated fees and charges related to waste activities are used for future waste related purposes.

Waste management increasingly requires effective long-term financial planning and vision. While operating a waste site, long term planning considerations need to be given to the following:

- The costs associated with post closure management;
- Plant and equipment;
- The development of new airspace through the construction and/or expansion of new cells / cell areas;
- Securing a future site for a new waste facility once the landfill area has been exhausted;
- Investment in technology to reduce landfilling;
- Education.

To help achieve these outcomes, a number of measures are needed. Of significant importance is an ability to retain any surplus funds to pay for these requirements in future years. This measure will subsequently act to reduce the reliance on the ratepayer when these significant waste management costs fall due.

3. POLICY CONTENT

At the end of each financial year the consolidated position of the City's waste management activities will be calculated. Any surplus over and above pre-existing reserve transfers will be transferred to the Waste Management Facility and Plant Reserve.

Waste Management Activities revenue and expenditure

Expenditure associated with Waste Management

Employee Wages (Tip Site and Truck Drivers)
Tip Maintenance Costs (Road Maintenance)
License Fees
Printing, Stationery and Postage Costs
Signage
Consultancy
Surveyors Fees
Transport Costs
Recycling Contractor Costs
Hire of Plant & Equipment

Revenues associated with Waste Management

Waste Disposal Charge (full amount to reserve)*
Recycling Bin Charge
Domestic Bin Charge
Commercial Bin Charge
Sale of Recyclables including Scrap Metal
Gate Fees (see annual list of Fees and Charges)
Liquid Waste
Sale of Mulch
Grant funding
All other waste related income

6.1 Attachment B Current Policy Waste Management Facility and Plant Reserve -
Management of end of year position

Last updated 25/03/2015

Analytical Services - Water quality Monitoring
Weed & Pest Control
Water Consumption
Insurance (Public Liability & Building)
Advertising
Mobile Phones
Disposal of Recyclables including the following:
E-waste
Cardboards
Mattresses
Crushing of Construction & Demolition waste
Tyres
Batteries
Fluro Tubes
Gas Bottles
Plant Charges
De-gassing fridges & freezers
Items of Plant and Equipment**
All other waste related expenditure

* All revenue generated from the Waste Disposal Charge is automatically placed in the Waste Management Facility and Plant Reserve. These funds are set aside specifically for future waste infrastructure requirements.

** Any new and replacement items of plant and equipment required by Waste Services will be funded from the Waste Management Facility and Plant Reserve.

It is also important to note, that should there be any operating deficit, in any given year, this amount will be drawn down against the Waste Management Facility and Plant Reserve. This is considered unlikely as the gatehouse fees, recycling and general waste bin collection charges should always exceed total operating costs if set appropriately.

4. APPLICATION OF THE POLICY

The policy shall be applied by the Finance & Corporate Services Directorate, under the evidence of the Engineering & Works Services Directorate.

Policy Background

History

At the Council meeting held on 27th June 2012 the Council endorsed the following recommendation (resolution reference number C1206/163):

“Approve that any year end surplus or deficit pursuant to the City’s Consolidated Waste Management is retained for future waste management activities via transfers to the Waste Management Facility and Plant Reserve”.

Council Resolution	Date	Information
C1503/069	25 March, 2015	Version 2 Alterations made to the Waste Management Activities revenue and expenditure schedule as a result of the adoption of the Long-term Financial Plan which identified funding for new and replacement items of plant and

Last updated 25/03/2015

		equipment required by waste services being funded from the Reserve.
C1303/071	27 March, 2013	Version 1

6.2 BUSSELTON & DUNSBOROUGH CENTRES FACADE REFURBISHMENT SUBSIDY PROGRAMME

SUBJECT INDEX:	City Centre Facade Refurbishment Subsidy Programme
STRATEGIC OBJECTIVE:	Creative urban design that produces vibrant, mixed-use town centres and public spaces.
BUSINESS UNIT:	Statutory Planning
ACTIVITY UNIT:	Statutory Planning
REPORTING OFFICER:	Planning Officer - Joanna Wilkinson
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Busselton & Dunsborough Centres Facade Refurbishment Subsidy Programme ↓ Attachment B Application Location Plans ↓ Attachment C Baked Busselton Proposed Works ↓ Attachment D Shadowz Proposed Works ↓

PRÉCIS

The Council is asked to consider two applications received for the Busselton and Dunsborough Centres Façade Refurbishment Subsidy Programme in accordance with the programme guidelines adopted. Both applications have been assessed against the objectives and assessment criteria of the programme, and are recommended for approval.

BACKGROUND

Council resolved on 13 March 2013 to trial a programme for the 2013/14 and 2014/15 financial years, by allocating \$20,000 in the 2013/14 financial year and \$50,000 in the 2014/15 financial year towards a façade refurbishment subsidy programme. On 29 January 2014 Council adopted the Busselton City Centre Façade Refurbishment Subsidy Programme and on 10 December 2014 resolved to add a portion of the Dunsborough Town Centre to the 'eligible area.' Prior to the 2016/17 subsidy programme rounds, Council resolved to amend the criteria to add in 'design works' and alfresco associated works to the eligible criteria list. The amended programme, now called the Busselton and Dunsborough Centres Façade Refurbishment Subsidy Programme, is provided as **Attachment A**.

The City recently invited expressions of interest in the 2017/2018 funding round, which closed on 18 May 2018. Two complete applications have been received and are the subject of this report. The applications include one proposal located within the Busselton Town Centre and one within the Dunsborough Town Centre. Location plans of these applications are provided as **Attachment B**.

The applications to be considered are as follows:

1. Baked Busselton – Lot 1 (91 - 93) Queen Street Busselton

The applicant proposes to refurbish the existing façade of the building at the corner of Queen and Prince Streets by repainting walls, roof, door and window frames, partially applying a new cladding surface to the fascia, and the addition of a new door. The applicant also proposes to fix a timber bar table to the truncated corner of the building, and introduce an alfresco seating area at the corner of Prince and Queen Streets. The applicant has concurrently applied for development approval and an outdoor eating permit. **Attachment C** details the proposed works.

2. Shadowz Functional Art – Lot 1 (237) Naturaliste Terrace Dunsborough

The applicant proposes to renew the prominent corner site of Naturaliste Terrace and Hannay Lane by replacing the shopfront doors and façade windows to each street, installing a roof parapet wall, and upgrading the existing awning. In order to create a consistent standard within the streetscape, the roof parapet wall and awning upgrades will also be carried out to the adjoining café and clothing shop. The applicant also proposes to paint a mural on the façade facing Hannay Lane. **Attachment D** details the proposed works.

STATUTORY ENVIRONMENT

The Busselton and Dunsborough Centres Façade Refurbishment Subsidy Programme and application for subsidy funding is consistent with the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*.

RELEVANT PLANS AND POLICIES

The Busselton and Dunsborough Centres Façade Refurbishment Subsidy Programme guides assessment of applications received for subsidy funding. It provides clarification and transparency to the public on what will be considered acceptable for an application.

The programme specifies ‘eligible areas’ and ‘eligible works’ which will be considered for funding.

In determining applications, the following assessment criteria are to be taken into consideration:

- Compliance with the City’s Local Planning Scheme and the Building Code of Australia;
- Consistency with the objectives and recommendations of the Busselton City Centre Urban Design Policy;
- The degree to which the applicant is financially contributing to the project;
- The extent to which the project contributes to the visual improvement of the façade, and is visible from the public domain;
- Integration of proposed works with the streetscape, adjoining buildings and degree to which the project contributes to the established character of the street; and
- The degree to which the proposed works promote interaction with the streetscape, including the provisions of frontages which are inviting, provide points of interest for pedestrians and allow for an efficient use of space, are functional, attractive and pedestrian friendly.

FINANCIAL IMPLICATIONS

A budget of \$50,000 for the subsidy programme is provided for in the City budget for the 2018/2019 financial year.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

There are no long term financial plan implications associated with the Officer’s recommendation.

STRATEGIC COMMUNITY OBJECTIVES

The officer’s recommendation primarily aligns with the following Key Goal Area/s and Community Objective/s of the City of Busselton’s Strategic Community Plan 2017:

Key Goal Area 2 - PLACE AND SPACES: Vibrant, attractive, affordable

2.3 Creative urban design that produces vibrant, mixed-use town centres and public spaces.

RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer's Recommendation has been undertaken using the City's risk assessment framework. Risks are only identified where the individual risk, once controls are identified, is medium or greater. No such risks have been identified.

CONSULTATION

Expressions of interest were sought for the programme from 18 April to 18 May 2018 via a letter sent to all relevant property owners, and advertising in the newspaper was conducted. City officers also conducted door knocking and consulted business owners throughout the eligible Busselton and Dunsborough localities.

OFFICER COMMENT

The following applications are to be assessed against the Busselton and Dunsborough Centres Façade Refurbishment Subsidy Programme. All applications are within the eligible areas of the programme which the City has identified as a priority for upgrades. The programme identifies works which will be considered as eligible for funding and excludes works such as general maintenance, which should be occurring regularly without the programme as 'ineligible' for subsidy funding.

The following provides an assessment of the works and consistency with the programme guidelines.

1. Baked Busselton – Lot 1 (91 - 93) Queen Street Busselton

The applicant has applied for a subsidy contribution for the works summarised below:

Works Proposed	Quotation (ex GST)	Eligible or Ineligible Works	Amount (ex GST)
Supply and cut cladding of fascia	\$2,800	Eligible works	\$2,800
Reframing of timbers for fascia	\$2,350	Eligible works	\$2,350
Reclad fascia (installation)	\$3,200	Eligible works	\$3,200
Glass double door	\$2,209	Eligible works	\$2,209
Installation of glass door	\$6,991	Eligible works	\$6,991
Alfresco furniture and umbrellas	\$3,299	Eligible works	\$3,299
<i>Total Expenditure (ex GST)</i>			<i>\$20,849</i>
<i>Potential subsidy contribution (50% of total expenditure (ex GST) above (after) the first \$5,000)</i>			<i>\$7,924</i>

The works proposed meet the assessment criteria of the programme as they will:

- Comply with the City of Busselton Local Planning Scheme No. 21; and
- Visually improve the streetscape via increased glazing and renewed fascia; and
- Enhance the physical quality of the built environment through sensitive use of spaces (alfresco dining).

The majority of the existing Prince Street frontage is bulky with a mix of brickwork and opaque windows. The addition of an extra set of transparent double doors will reduce building bulk and provide a more interactive frontage that is inviting, attractive, and pedestrian friendly.

It is noted that the existing customer entrance to the service area does not comply with disability access requirements in the Building Code of Australia. One of the City's registered Building Surveyors has confirmed that there is reasonable justification to maintain the existing steps into the building, and the applicant had provided a short and long term management plan addressing disability access.

It is recommended that subsidy funding of up to \$7,924 be provided.

2. Shadowz Functional Art – Lot 1 (237) Naturaliste Terrace Dunsborough

The applicant has applied for a subsidy contribution for the works summarised below:

Works Proposed	Quotation (ex GST)	Eligible or Ineligible Works	Amount (ex GST)
Preliminary design work	\$2,820	Eligible works	\$2,820
<i>Total Expenditure (ex GST)</i>			<i>\$2,820</i>
<i>Potential subsidy contribution (up to 50% of agreed scope of works)</i>			<i>\$1,410</i>
Steelwork	\$8,500	Eligible works	\$8,500
Windows/Doors	\$16,500	Eligible works	\$16,500
Electrical/Light fittings	\$3,000	Eligible works	\$3,000
Carpentry	\$4,500	Eligible works	\$4,500
New soffit to 3 shops	\$5,100	Eligible works	\$5,100
Demolition, materials, labour, scaffolding, waste management, sundry charges	\$20,732	Eligible works	\$20,732
Materials and labour for external mural	\$4,027	Eligible works	\$4,027
<i>Total Expenditure (ex GST)</i>			<i>\$62,359</i>
<i>Potential subsidy contribution (50% of total expenditure (ex GST) above (after) the first \$5,000)</i>			<i>\$20,000</i>

The works proposed meet the assessment criteria of the programme as they will:

- Comply with the City of Busselton Local Planning Scheme No. 21; and
- Visually improve the façade of a prominent corner site; and
- Integrate with adjoining buildings via the roof parapet wall and upgraded awning, thereby contributing to the overall character of the streetscape; and
- Promote visual interest within the streetscape for pedestrians through the creation of a mural on the wall of the Hannay Lane façade.

Good design responds to the context and character of a site, and provides amenity and legibility within the existing urban area. This proposal responds to the context of the site by increasing visual interest on a prominent corner. Installation of urban art contributes to legibility by creating a recognisable intersection and landmark, and contributes to a recognisable route.

Amenity will be improved through the replacement of the existing awning, thereby creating a comfortable environment for pedestrians with protection from sun and rain.

It is recommended that subsidy funding of up to \$1,410 for preliminary design work and \$20,000 for eligible works be provided.

CONCLUSION

It is considered by officers that elements of both proposals comply with criteria set out in the Busselton and Dunsborough Centres Façade Refurbishment Subsidy Programme. It is recommended that the subsidy funding of \$7,924, \$1,410 and \$20,000, respectively, be supported.

OPTIONS

The Council could:

1. Resolve to provide subsidy funding for the works associated with one application only.
2. Resolve to not provide subsidy funding for any works.

If any Councillor is minded to either of the above options Officers can assist on the drafting of a suitable alternative motion.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation if supported will require the applicant to enter into a legal agreement with the City to complete the works and arrange for the subsidy funding to be paid prior to the end of the 2018/19 financial year.

OFFICER RECOMMENDATION

That the Council resolve:

1. That the application to upgrade the façade and provide alfresco seating at Lot 1 (91 - 93) Queen Street Busselton is consistent with the objectives and assessment criteria of the Busselton and Dunsborough Centres Façade Refurbishment Subsidy Programme and to contribute \$7,924 towards the works;
2. That the preliminary design work associated with the proposed façade upgrade at Lot 1 (237) Naturaliste Terrace Dunsborough is consistent with the objectives and assessment criteria of the Busselton and Dunsborough Centres Façade Refurbishment Subsidy Programme and to contribute \$1,410 towards the works; and
3. That the application to upgrade the façade at Lot 1 (237) Naturaliste Terrace Dunsborough is consistent with the objectives and assessment criteria of the Busselton and Dunsborough Centres Façade Refurbishment Subsidy Programme and to contribute \$20,000 towards the works.

To enter into a legal agreement with the owners of the property in the successful application in Resolution 1, 2 and 3 to provide for the payment of funds once the works are completed to the City's satisfaction and final costs substantiated. The legal agreement shall include the requirements for appropriate recognition of the City's contribution to the City's satisfaction.



BUSSELTON & DUNSBOROUGH CENTRES FAÇADE REFURBISHMENT SUBSIDY PROGRAMME

1.0 PROGRAM OBJECTIVES

The Council has decided to establish the Busselton & Dunsborough Centres Façade Refurbishment Subsidy Programme. The Programme provides incentives in the form of grants to landowners and business operators to upgrade building facades in the Busselton & Dunsborough Centres. The objectives of the Programme are to:

- Beautify the Centres by improving the streetscape, which will in turn provide benefits to the broader community by making places more attractive, including for business and investment;
- Improve the experience of pedestrians to encourage more people to live, work, play and do business in the Centres;
- Reinforce and build upon the Busselton and Dunsborough Centres as the major retail, social and cultural hub of the City of Busselton and broader region;
- Enhance the physical quality and established character of the Centre's built environment through sensitive and innovative design of buildings and spaces; and
- Supporting building owners and business operators to improve the public impression of their buildings and businesses respectively.

Through providing financial assistance the Programme aims to develop stronger partnerships between the City and local businesses, and the Programme will complement the City's investment of resources into developing strategies and undertaking capital works to improve the function and appearance of the Centres.

The following provides a guide for the City, landowners and business operators in relation to: what buildings are eligible for the grant; how to apply; the application process and criteria for assessment; and general conditions that will be applied to successful applications.

2.0 ELIGIBLE BUILDINGS

The Programme applies to properties fronting Queen Street and Prince Street in the Busselton Centre as outlined in the programme area map at **Attachment 1**.

The Programme applies to properties fronting Naturaliste Terrace, Dunn Bay Road, Hannay Lane and Dunsborough Place in the Dunsborough Centre as outlined in the programme area map at **Attachment 2**.

The Programme area will be reviewed over time to reflect the City's priority areas for improvement and may also correspond with capital works improvements on streetscapes within the Centres.

3.0 HOW TO APPLY

Applicants will need to submit a completed application form and supporting documentation for the City to assess. Applicants should ensure that as part of applying for the grant they have submitted:

- The completed application form;

6.2 Attachment A Busselton & Dunsborough Centres Facade Refurbishment
Subsidy Programme

- A plan demonstrating the works to be undertaken, which as a minimum will include an elevation plan showing the proposed modifications to the building façade; and
- A cost estimate for the eligible works from an appropriate builder. Cost estimates are to be itemised showing a breakdown of the components of the cost estimate.

4.0 APPLICATION PROCESS

Eligible landowners and business operators will be contacted or notified via public consultation that applications are being sought for the Programme. The following outlines the general process of how the Programme will be administered.

4.1 Pre-Approval Process

1. Interested landowners and business operators are encouraged to contact the City to arrange a pre application discussion with staff prior to preparing or submitting an application.
2. Applicants complete application form and all relevant documents to submit to the City prior to the closing date for applications to be received.
3. Applications will be assessed by City staff and prioritised in accordance with the assessment criteria of this programme.
4. City staff will prepare a report to the Councils' Policy and Legislative Committee, which will then make recommendations to Council with respect to which applications should be approved.
5. Successful applicants will be notified of the outcome of their application.

4.2 Assessment Criteria

Applications will be prioritised based on the following criteria:

- Compliance with the City's Town Planning Scheme and Building Code of Australia;
- Consistency with the objectives and recommendations of the Busselton City Centre Urban Design Policy;
- The degree to which the applicant is financially contributing to the project;
- The extent to which the project contributes to the visual improvement of the façade, and is visible from the public domain;
- Integration of proposed works with the streetscape, adjoining buildings and degree to which the project contributes to the established character of the street; and
- The degree to which the proposed works promote interaction with the streetscape, including the provision of frontages which are inviting, provide points of interest for pedestrians and allow for an efficient use of space, are functional, attractive and pedestrian friendly.

4.2.1 Eligible Works

Works eligible for grant funding are:

- Preliminary design work consistent with the Program Objectives;

- Infrastructure associated with alfresco areas, including canopies, furniture, bollards and windscreens, as part of an integrated design proposal consistent with the Program Objectives;
- Works consistent with a City approved Preliminary Design;
- Removal of opaque roller shutters/security grilles to be replaced with more appropriate transparent or inset behind shop display roller shutters;
- Works required, as a result of a building permit and compliance with disabled access in accordance with the *Building Act 2011* and *Building Regulations 2012*;
- The modification or creation of windows which will provide interaction with the streetscape;
- Properties adjoining a laneway may apply for upgrade works for the visible portion from the streetscape; however these works are to complement façade works fronting the endorsed project area;
- Under awning lighting (excluding illuminated signage);
- Skinning of existing awning structure and fascia with new material; and
- Repair or replace awning structure.



Works shall only include upgrades to the façade of the building (includes awning and posts). Applicants are encouraged to outline any desired works, landscaping etc on public land, and subject to consideration at the annual budget review the works may be included in the City's capital works program.

4.2.2 Ineligible works

Works not eligible for grant funding include:

- Removal of non-compliant signage or any new signage;
- Internal alterations and additions to a building;
- General maintenance;
- Any works required to satisfy conditions of planning consent, building or health which are not a result of this program;
- Works that have already been completed, or have been commenced;
- Works necessary only to accommodate relocation of a new business and/or replace signage/paint;
- Upgrades and/or works to laneways which are not visible from the streetscape, are not identified within the programme area and do not form a complimentary function to upgrade of a property fronting a public street;



4.3 Implementation of successful grant applications

Successful grant applications will need to be implemented in accordance with the following general process:

Preliminary Design

1. Applicant is required to consult with the City to clarify the Program Objective and a consistent outcome.
2. A 'scope of the work', for commissioning the design work will be submitted to the City including costs. Only design work prepared by an Registered Architect is acceptable.
3. Subject to gaining the City's agreement on the scope of work and the agreed grant sum the applicant is to complete the design works.
4. Applicant to submit the design work tax invoice to the City of Busselton for agreed grant sum.
5. Subject to the scope of works being achieved, and the work prepared to a professional quality, the City will pay the agreed grant sum.

Works

1. Applicant is required to source minimum of two quotations from appropriate builders for endorsed works and required to sign agreement prepared by the City. The agreement will finalise the maximum sum to be paid by the City on completion of the agreed works.
2. Applicant is to complete works in accordance with signed agreement by the end of the financial year following the year in which the grant is approved (i.e. currently, by the end of the 2014/15 financial year), unless otherwise agreed to by the City in writing.
3. Applicant to provide written notification to the City once works have been completed, including receipt for payment of works (payment will only be authorised to persons in the signed agreement).
4. City of Busselton inspects works to determine if they are satisfactory to the agreement signed.
5. Applicant to prepare tax invoice to the City of Busselton for agreed grant sum.

6.0 GRANT FUNDING

Applications for Preliminary Design works and applications for works will be determined as separate grant applications, each to the maximum grant available.

Preliminary Design

The City will provide successful applicants a grant of up to 50% of the agreed scope of works cost (ex GST) up to a maximum grant of \$5,000.00.

Grants are only available to an agreed scope of work with a minimum total value of \$2,000 (ex GST).

Works

The City will provide successful applicants a grant of up to 50% of the agreed project cost (ex GST) up to a maximum grant of \$20,000.00 per building.

Grants are only available to projects with a minimum total value of \$10,000 (ex GST).

Three worked examples of the maximum grant available for projects are set out below.

Example A: \$60,000.00 total project value. Project value above \$5,000.00 is \$55,000.00, 50% of which is \$27,500.00. Maximum grant is \$20,000.

Example B: \$45,000.00 total project value. Project value above \$5,000.00 is \$40,000.00, 50% of which is \$20,000.00. Maximum grant is \$20,000.00.

Example C: \$15,000.00 total project value. Project value above \$5,000.00 is \$10,000.00, 50% of which is \$5,000.00. Maximum grant is \$5,000.00.

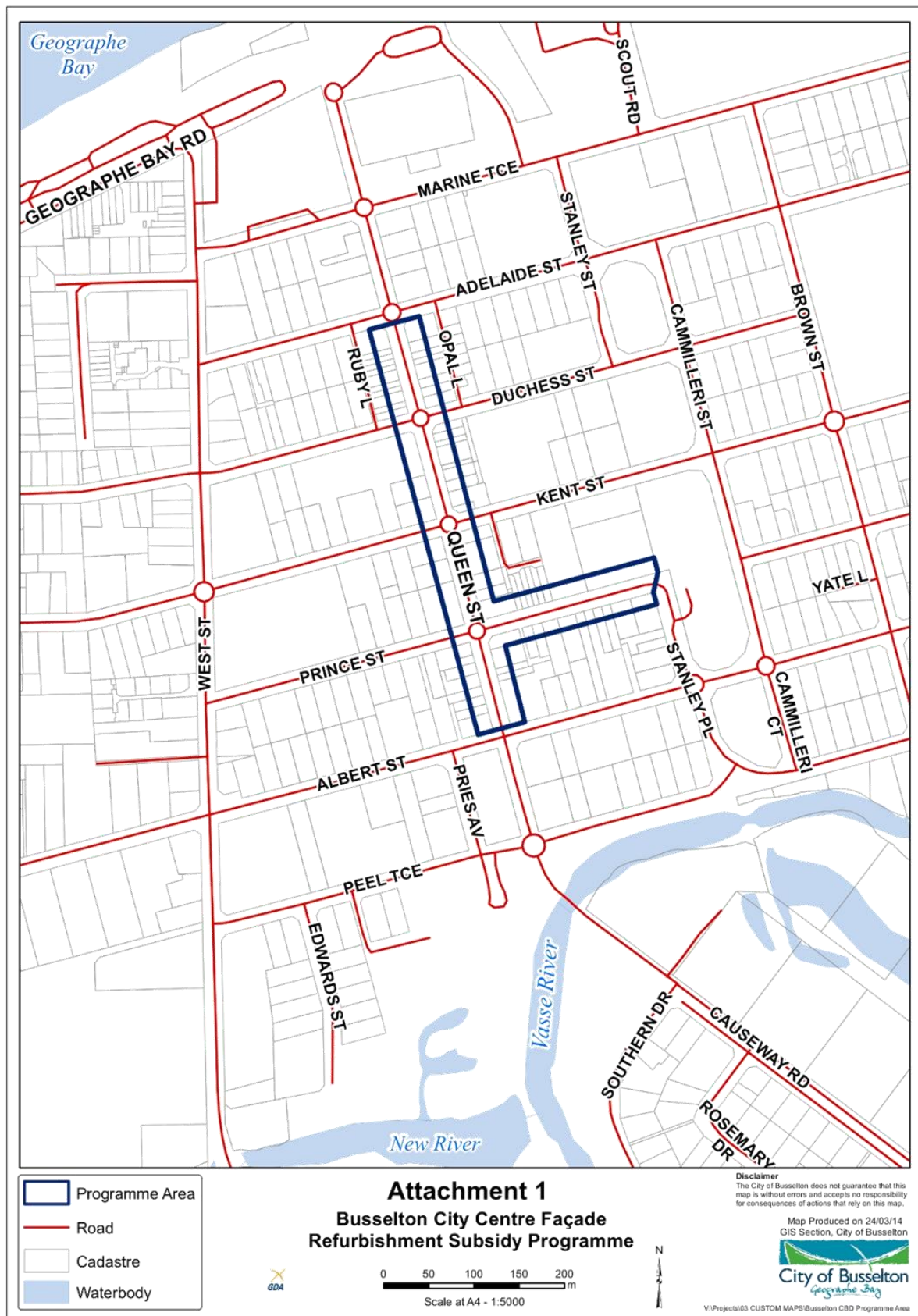
The number of applications that are successful will be dependent on the number and total cost of supported applications. The Programme has a maximum of \$50,000.00 allocated for the first round, with a review of the Programme to occur annually. Funds will be allocated once a year, however should there be sufficient funds after the initial funding round in any given year, a second round of applications may be considered at the City's discretion.

Unsuccessful applicants will be eligible to apply for a contribution towards design work required to prepare their application. Contributions will be available from a pool of \$3,000.00 and will be allocated based on the number of unsuccessful applications received. Contributions for preliminary design work to unsuccessful applicants will only be provided subject to a written request being received and a copy of the invoice for design work being provided.

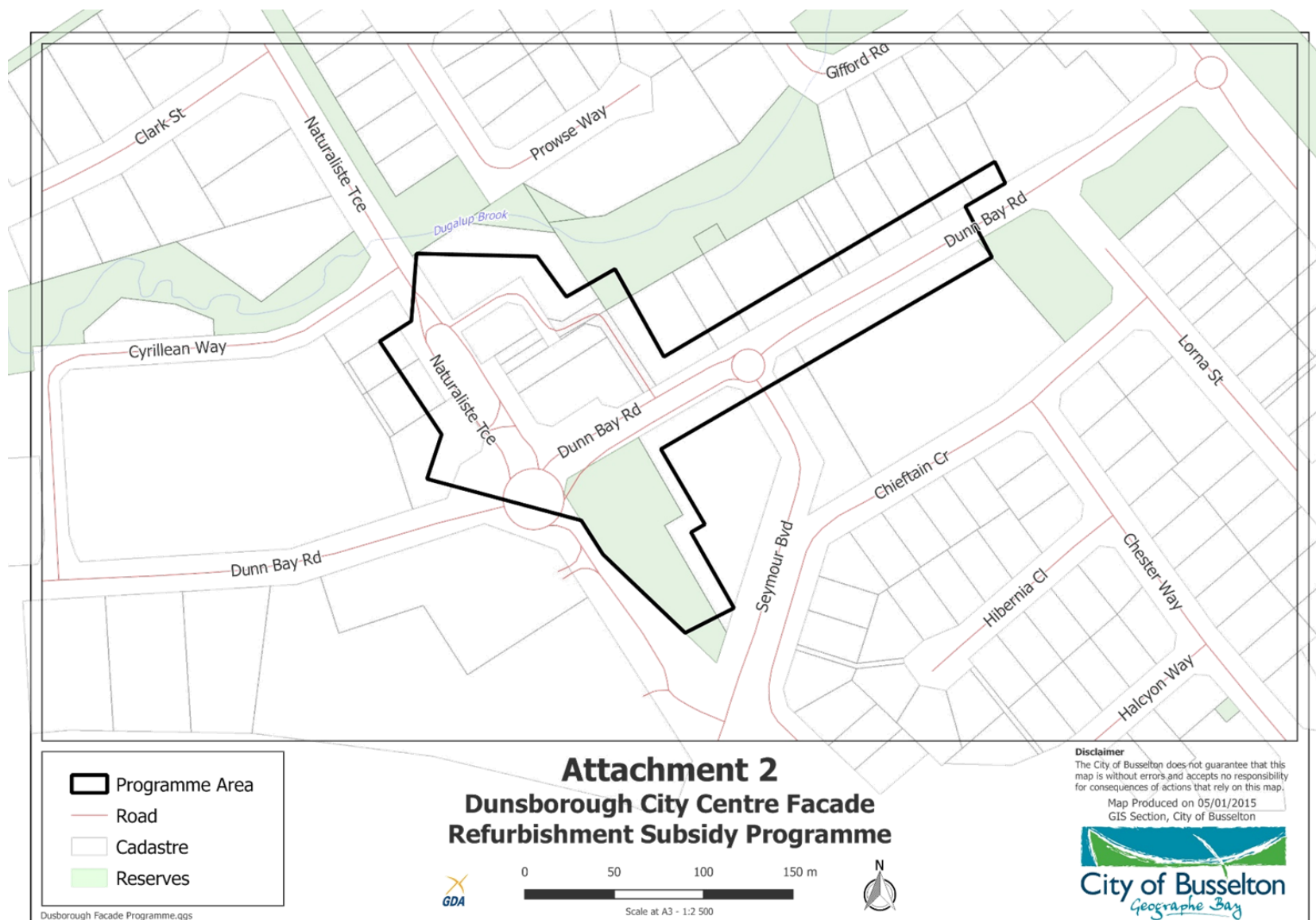
7.0 GENERAL CONDITIONS

Successful applicants will be required to sign an agreement with the City acknowledging that the grant will only be available subject to complying with general conditions. To provide transparency of the City's expectations prior to landowners or business operators submitting an application, the following outlines general conditions that will be contained within the agreement:

1. Applicants will be required to remove any illegal signage as part of façade improvements.
2. The applicant is to be responsible for obtaining all necessary planning and building approvals prior to commencement of works.
3. The City of Busselton will waive any planning fees required to commence successful works on successful grant applications. Building permit application fees are to be paid by the applicant.
4. Works are to be undertaken by licenced contractors.
5. Cost estimates and quotations are to be sourced from suitably qualified local (City of Busselton municipal boundary) businesses wherever possible. Cost estimates and quotations are to provide costs for each component being applied for.
6. The applicant if successful is to enter into an agreement with the City setting out the agreed schedule of works, timeline and grant sum.
7. Funds will not be reimbursed until after the completion of the project and the City has agreed that all work has been carried out satisfactorily and within the specified time frame.
8. Any overrun in costs is not the responsibility of the City and the City will only be liable to reimburse the costs as per the agreement.



Busselton & Dunsborough Centres Facade Refurbishment Subsidy Programme





EXISTING DEVELOPMENT - LOT 1 (91 - 93) QUEEN
STREET BUSSELTON





EXISTING DEVELOPMENT - LOT 1 (237) NATURALISTE
TERRACE DUNSBOROUGH

baked.

BUSSELTON

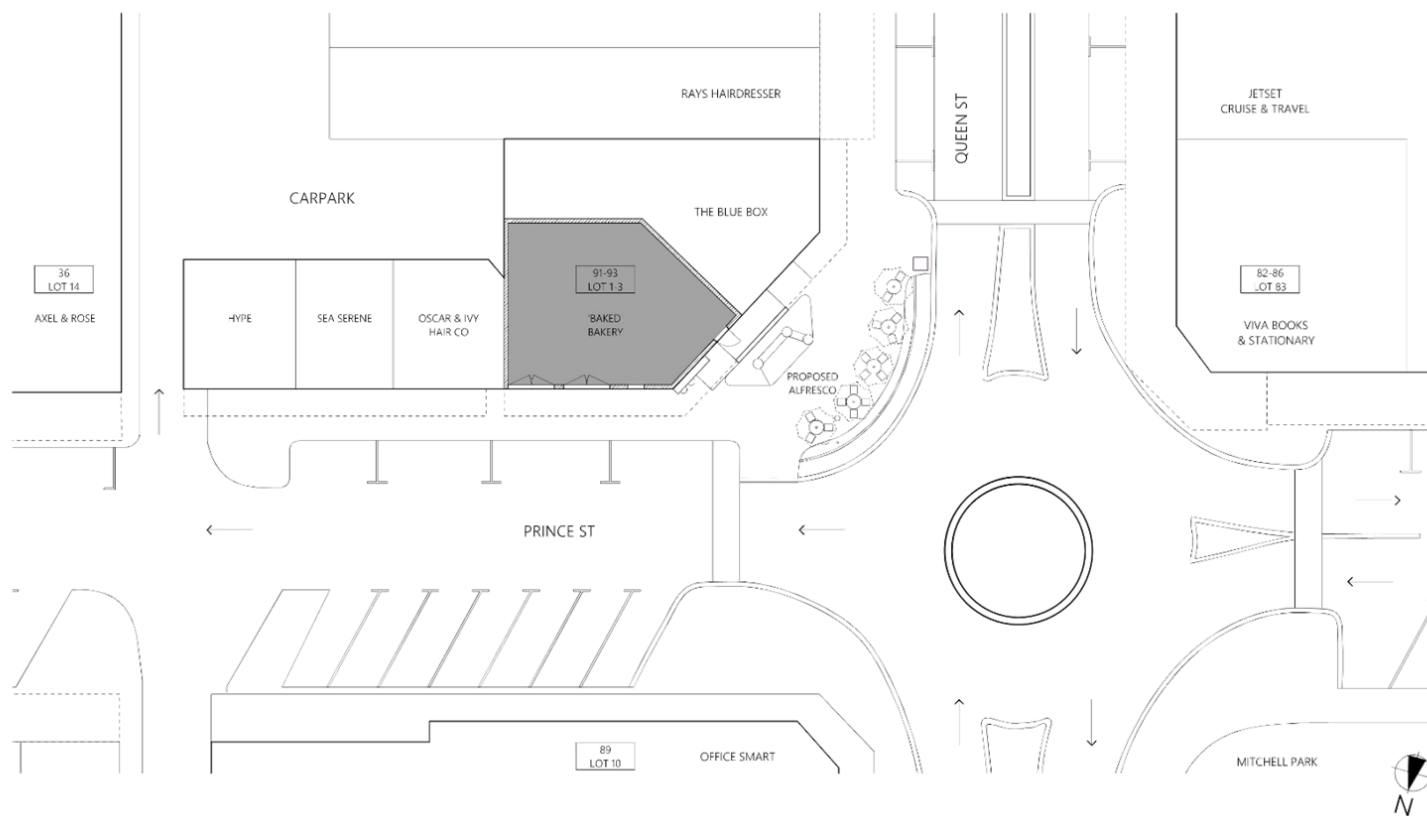
PLANNING APPROVAL
OUTDOOR EATING PERMIT
FACADE SUBSIDY PROGRAMME



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A02	Floor Plan	1:100
A03	Outdoor Seating Plan	1:50
A04	Street Elevations	1:100

PROJECT: Baked Busselton CNR PRICE ST & QUEEN ST, BUSSELTON	
ISSUED FOR: DESIGN APPROVAL	
COVER PAGE	
DATE: 01-Jun-18	DRAWING NO: A.00
SCALE: AS SHOWN @ A3	

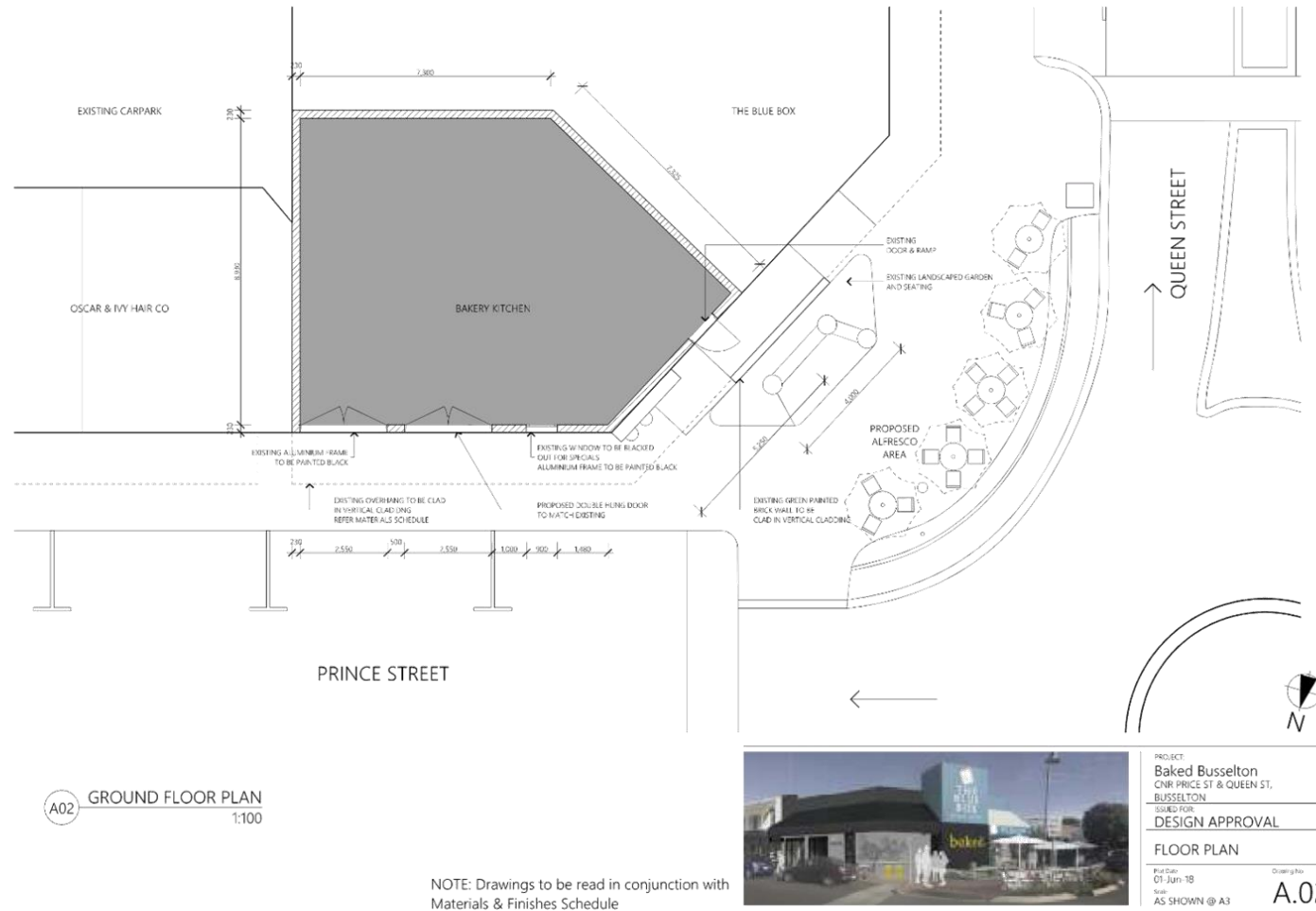


A01 SITE PLAN
1:200

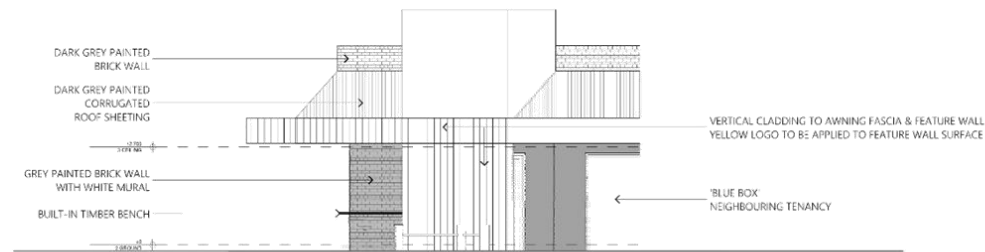
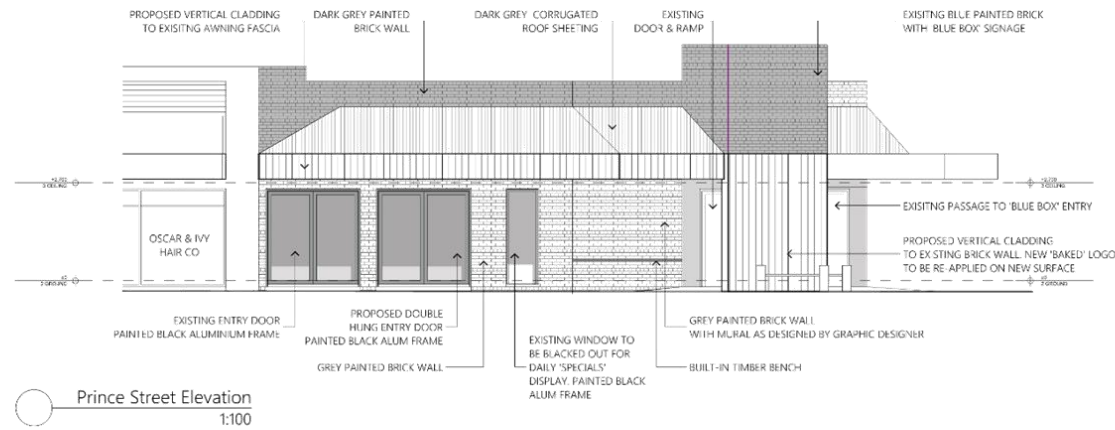
NOTE: Drawings to be read in conjunction with
Materials & Finishes Schedule



PROJECT:
Baked Busselton
CNR PRINCE ST & QUEEN ST,
BUSSELTION
ISSUED FOR:
DESIGN APPROVAL
SITE PLAN
Proj. Name:
01-Bun-18
Scale:
AS SHOWN @ A3
Drawing No.
A.01



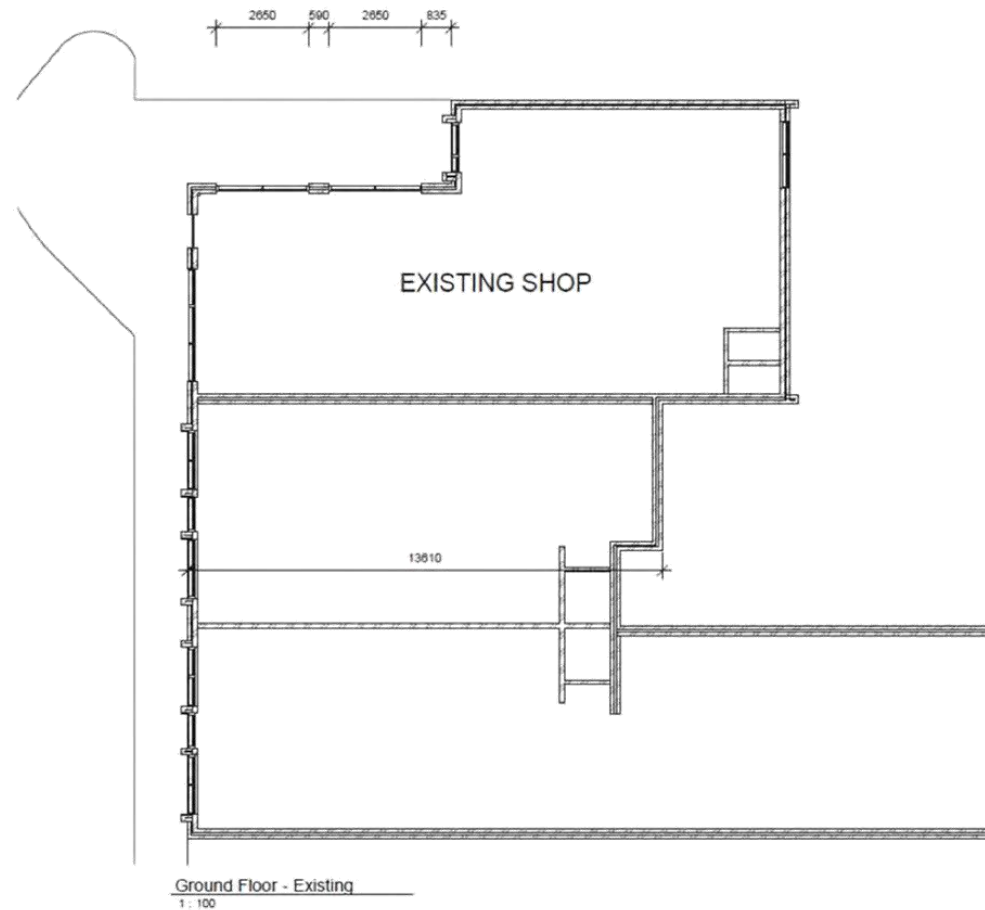




NOTE: Drawings to be read in conjunction with Materials & Finishes Schedule



PROJECT:	Baked Busselton
LOCATION:	CNR PRICE ST & QUEEN ST, BUSSELTON
SUBJECT:	DESIGN APPROVAL
DATE:	01-JUN-18
SCALE:	AS SHOWN @ A3
DESIGNER:	Grainthorpe
PROJECT NO.:	A.04



Existing
Shadowz - Dunsborough

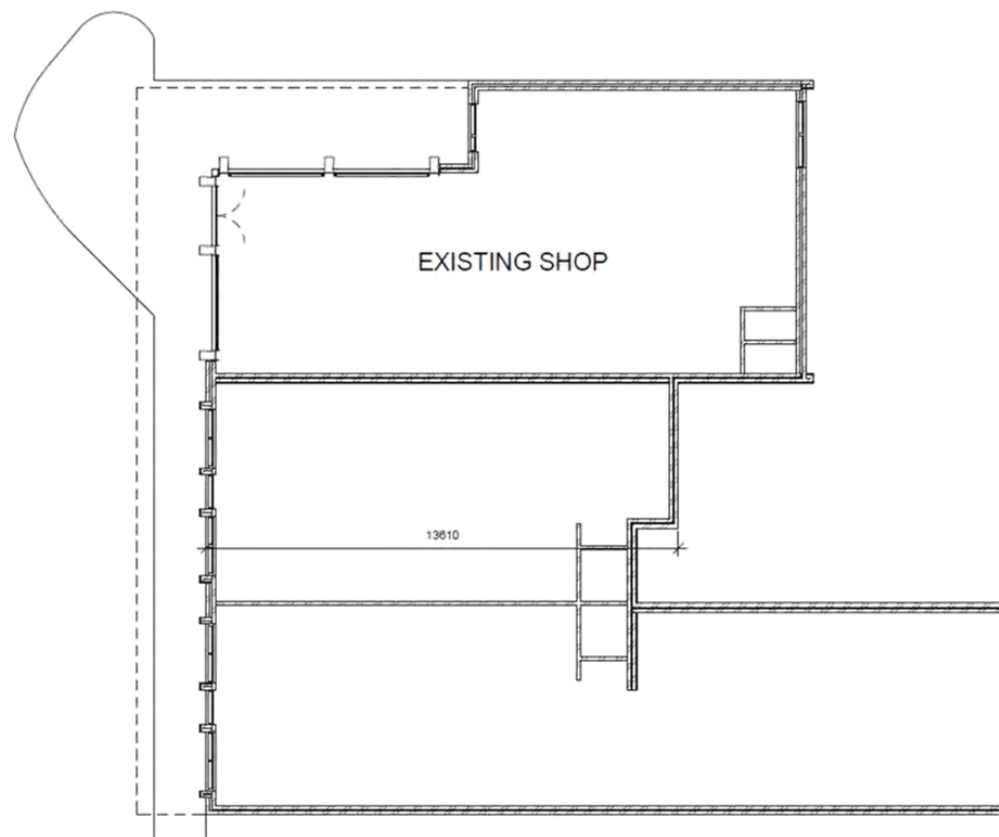


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Date: 05/12/16

1802
A102

rev

DAVID JENKINS ARCHITECTURE
M 0403020645
E djenkins@gmail.com
W davidjenkinsarchitecture.com



Ground Floor - Proposed
1:100

Proposed new shopfront
Shadowz - Dunsborough

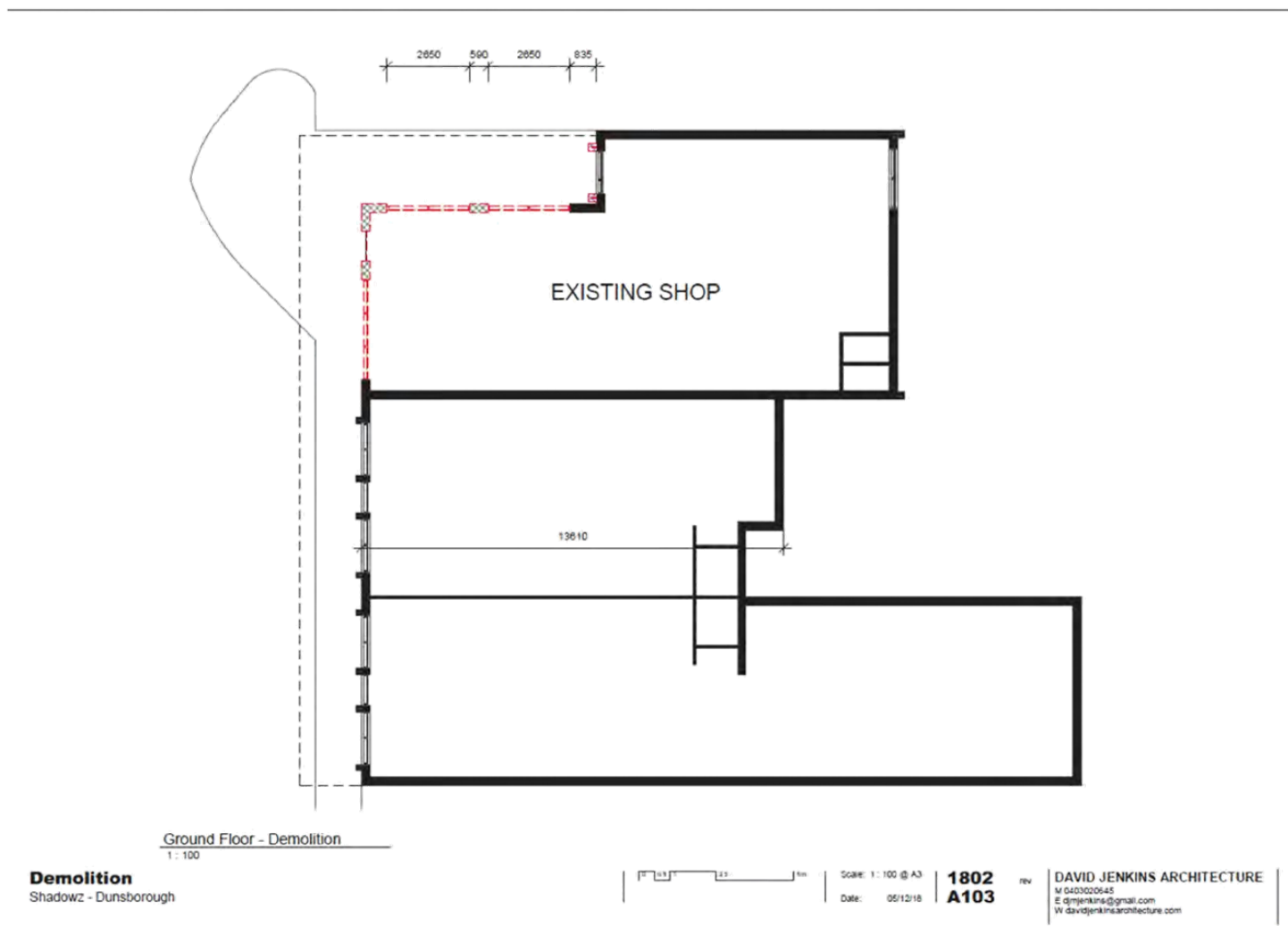


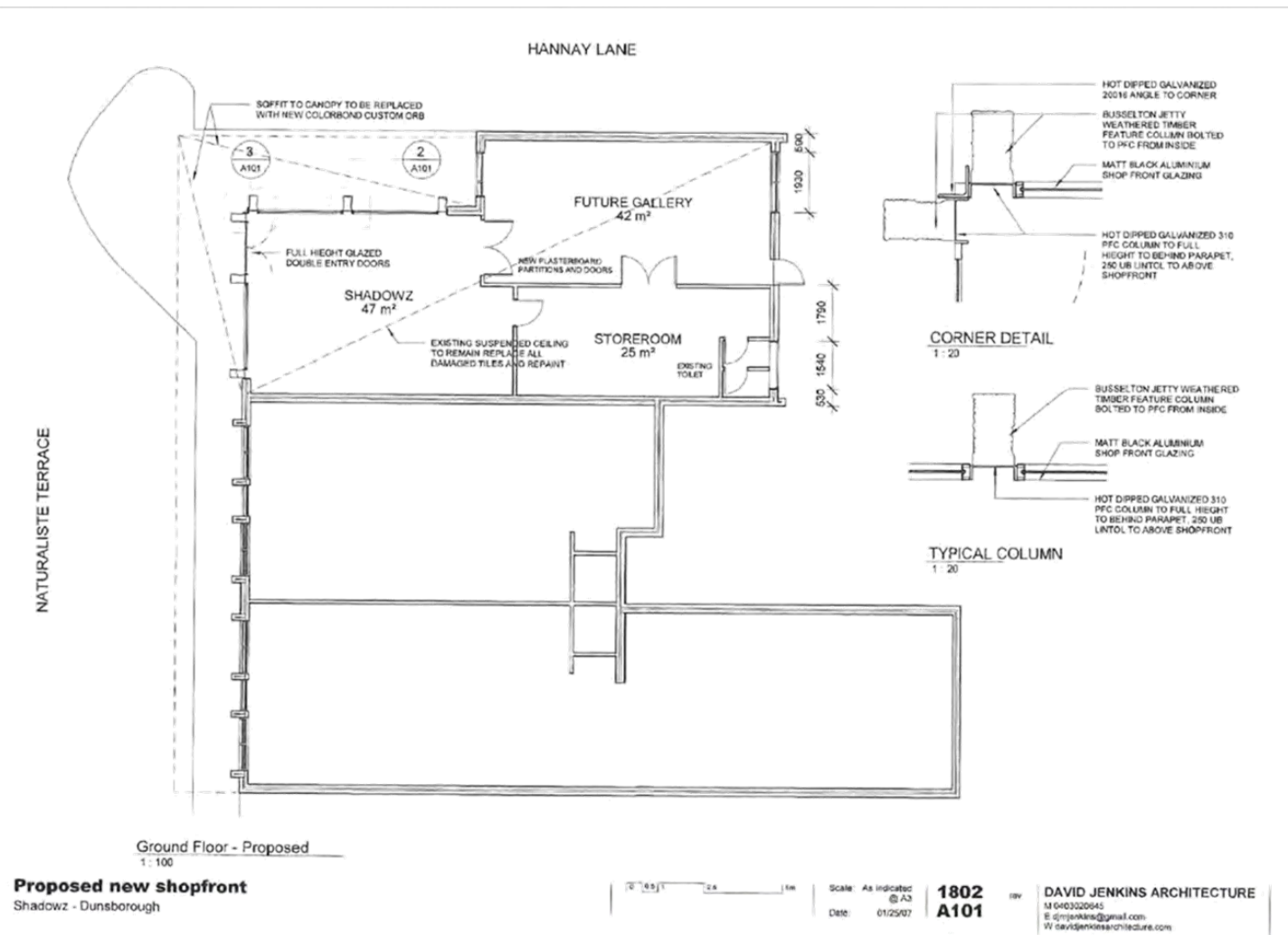
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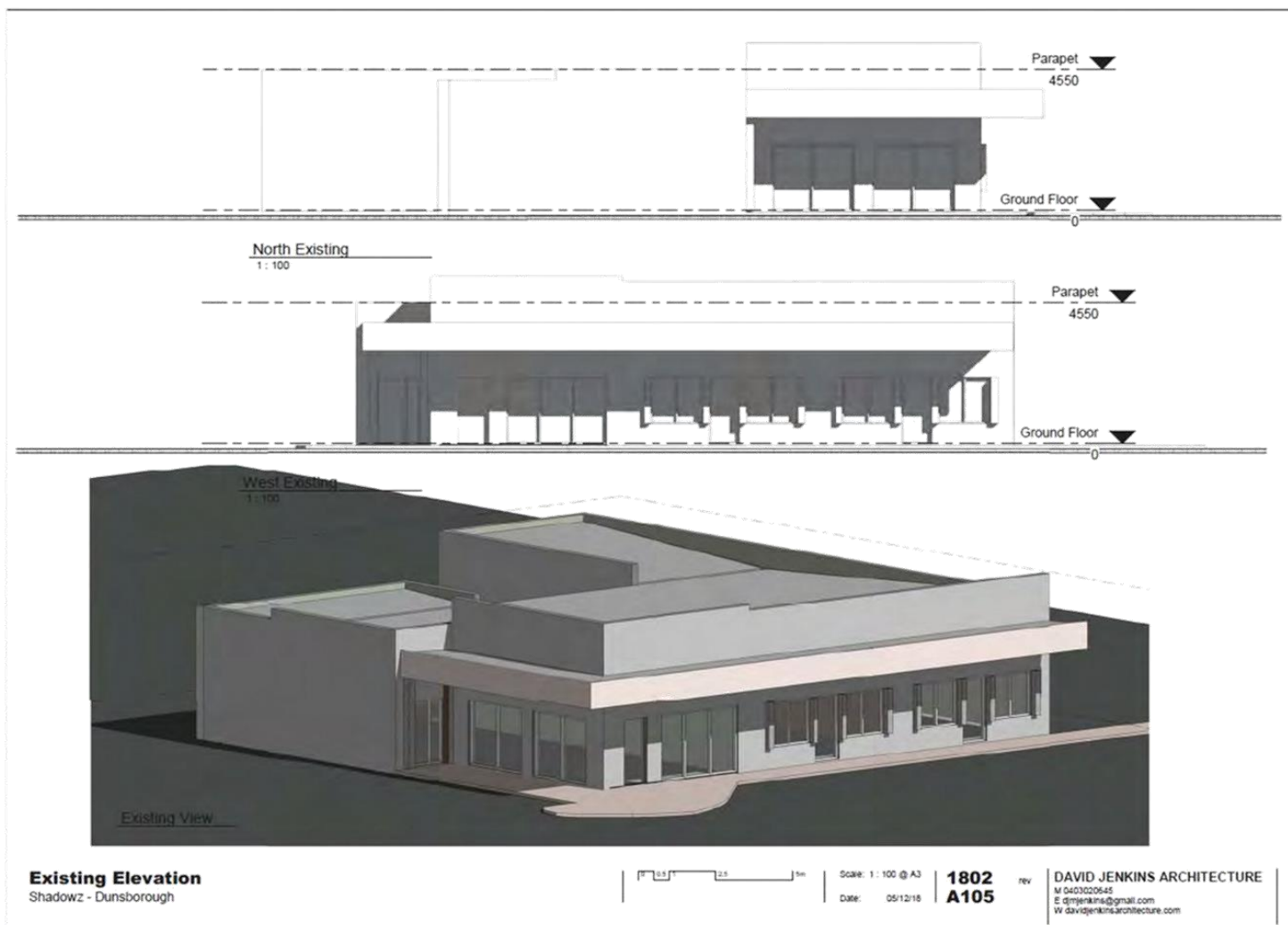
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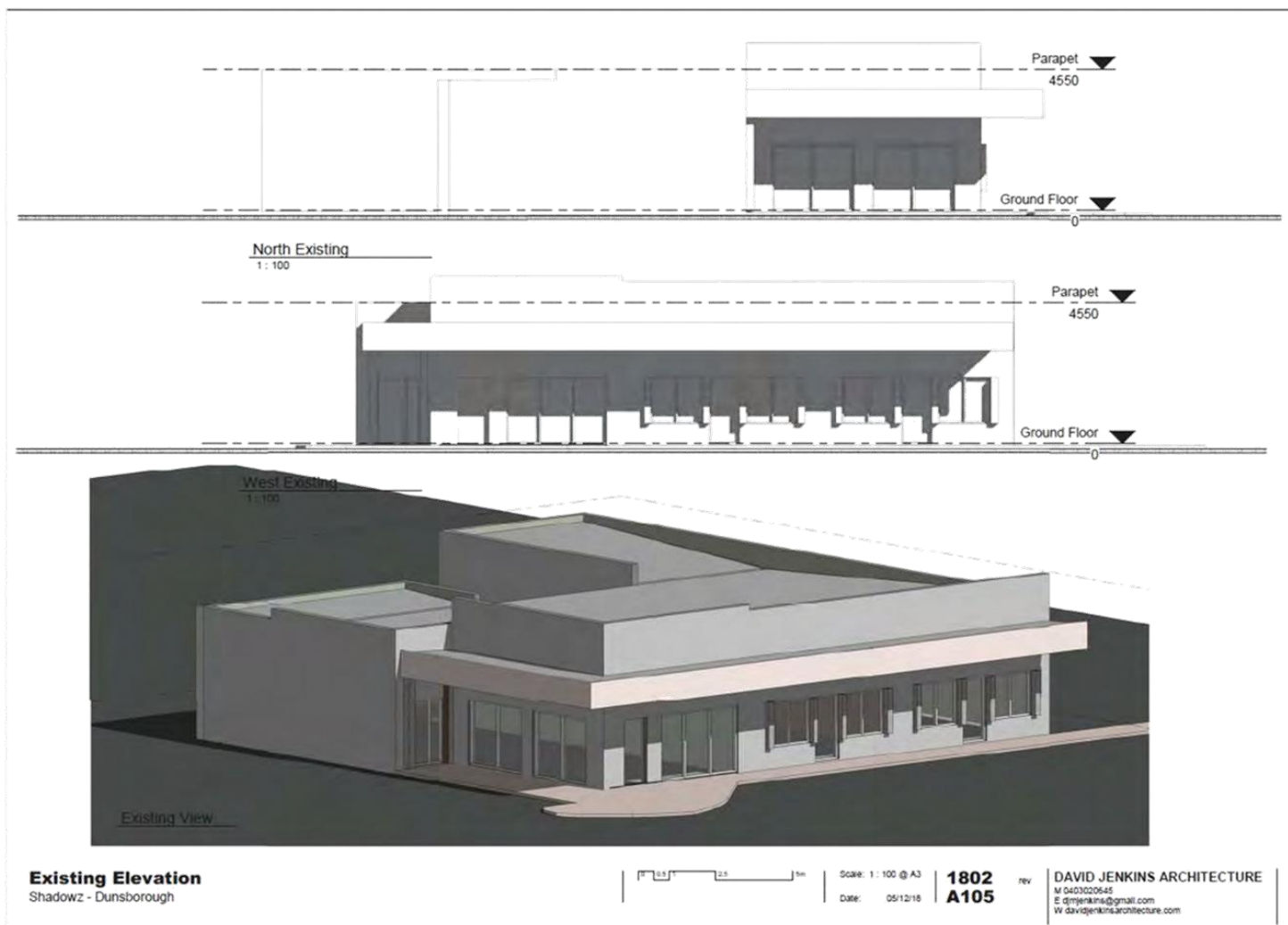
REV

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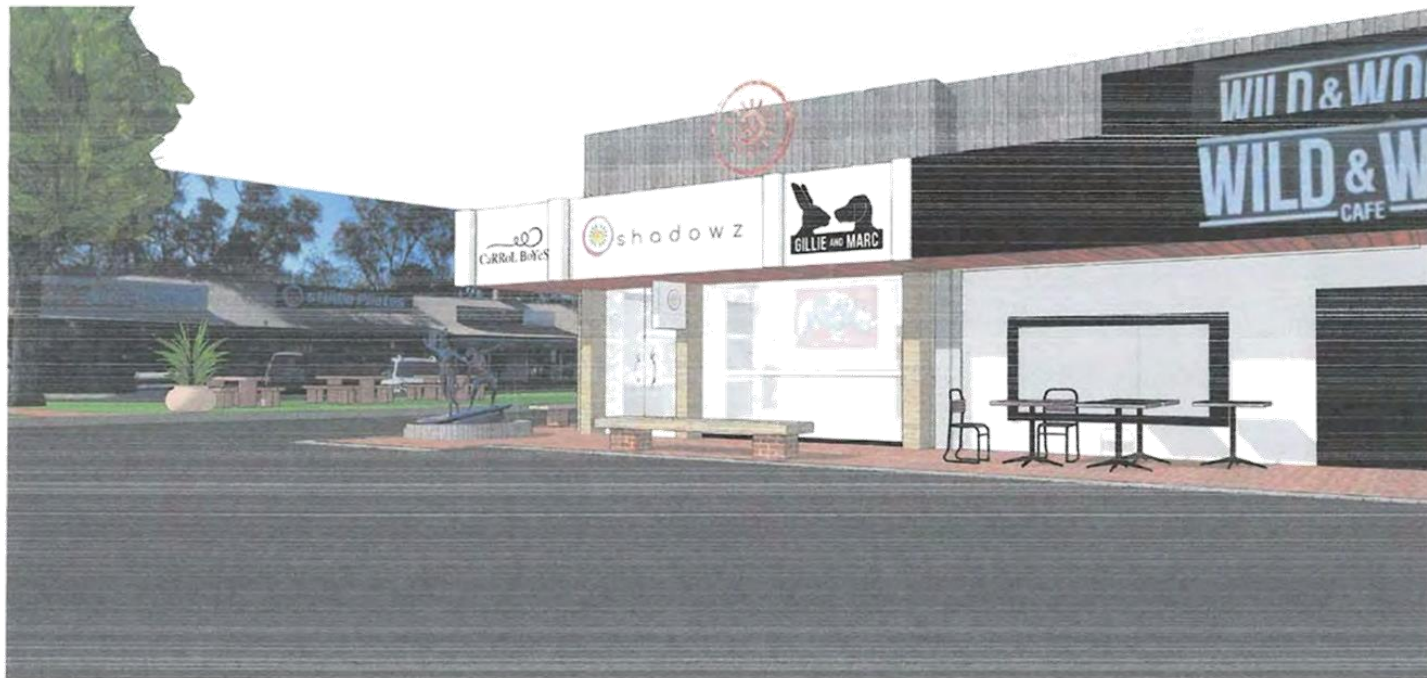






OUR NEW GALLERY







6.3 STANDING ORDERS LOCAL LAW AMENDMENT

SUBJECT INDEX:	Local Laws
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Legal Officer - Briony McGinty
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Amendment Local Law ↓ Attachment B Current Standing Orders ↓

PRÉCIS

The City's Standing Orders Local Law 2018 (**Standing Orders**) was published in the government gazette on 4 April 2018 and came into effect shortly thereafter. An amendment to the Standing Orders Local Law has been prepared (**Amendment Local Law**) for consideration by the Council. It is recommended that the Council initiate the law-making process and authorise the CEO to commence advertising the Amendment Local Law.

BACKGROUND

Following gazettal of the Standing Orders, the Joint Standing Committee on Delegated Legislation (**JSC**) wrote to the City seeking an undertaking to amend certain provisions of the Standing Orders. On 25 July 2018 the Council resolved to provide the following undertaking to the JSC:

"That the Council undertakes to the Joint Standing Committee on Delegated Legislation that:

1. *within six months, the City will make the following amendments to the City of Busselton Standing Orders Local Law 2018:*

- (a) *Amend clause 6.7(6)(c) to read as follows:*

the member of the public asks a question that is offensive or defamatory in nature or is one which, if asked by a member, would be in breach of these standing orders or any other law, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory, or does not breach these Standing Orders or any other law.

- (a) *Amend clause 5.10(6) by deleting the words 'Local Government'.*
- (b) *Amend clause 8.16(1) by deleting the figure '16' and inserting '15' in its place.*
- (c) *Amend clause 10.18(2) by deleting the phrase ', the member'.*
- (d) *Amend clause 11.6(2) by deleting the figure '5.6' and inserting '5.10' in its place.*

2. *until the Local Law is amended in accordance with undertaking 1, the City will:*
- (a) *not enforce the Local Law in a manner contrary to undertaking 1.*
 - (b) *where the Local Law is made publicly available, whether in hard copy or electronic form (including on the City's website), ensure that it is accompanied by a copy of these undertakings.*

As the City has undertaken to the JSC to amend the Standing Orders, it is also considered an opportunity to amend two other matters that have been identified by the City with regard to the Standing Orders. The two issues are the Order of Business and the timing of Notices of Motion. These issues are discussed further below under Officer Comment.

STATUTORY ENVIRONMENT

Section 3.5 of the Act provides Council with the head of power for making a standing orders local law.

Section 42 of the *Interpretation Act 1984* allows the WA State Parliament to disallow a local law, which is a mechanism to guard against the making of subsidiary legislation that is not authorised or contemplated by the empowering enactment, has an adverse effect on existing rights or ousts or modifies the rules of fairness. Parliament has appointed the JSC to undertake an advisory role on its behalf, which includes the power to scrutinise and recommend to the Parliament the disallowance of local laws to the Parliament.

Any correspondence received by the JSC is confidential and privileged. Disclosure of such information may be referred to the Legislative Council Procedure and Privileges Committee for investigation and possible penalty as contempt of Parliament.

RELEVANT PLANS AND POLICIES

There are no plans or other policies relevant to this matter.

FINANCIAL IMPLICATIONS

Costs associated with the advertising and gazettal of an amendment to the Standing Orders will come from the legal budget. These costs are unlikely to exceed \$2,000 and there are sufficient funds in the legal budget for this purpose.

Long-term Financial Plan Implications

The adoption of the Officer's recommendation has no long term financial plan implications.

STRATEGIC COMMUNITY OBJECTIVES

This proposal aligns with Key Goal Area 6 of the *City of Busselton Strategic Community Plan 2017* as follows:

6.1 Governance systems, processes and practices are responsible, ethical and transparent.

RISK ASSESSMENT

The Amendment Local Law will not involve a significant departure from current practices and is therefore considered low risk.

CONSULTATION

Should Council resolve to commence the process of amending the Standing Orders the City is required to undertake the notice requirements under Section 3.12(3) of the Act.

OFFICER COMMENT

Undertaking to JSC

Clause 6.7 of the Standing Orders deals with the procedures for public question time during meetings. Sub-clause (6)(c) provides that:

The presiding member may decide that a question is not to be responded to where –

.....

- (c) the member of the public asks a question that is offensive or defamatory in nature or is one which, if asked by a member, would be in breach of these standing orders or any other law;*

The undertaking to the JSC requires that clause 6.7(6)(c) be amended so that the Presiding Member can only rule that the question will not be answered where she or he has first attempted to assist the member of the public to rephrase their question. The Presiding Member need only take “reasonable steps”. The purpose of this amendment is to ensure that members of the public have a genuine opportunity to participate in question time.

Minor drafting improvements (which were part of the undertaking to the JSC) have also been included in the Amendment Local Law.

Order of Business

Improvements to the Order of Business under clause 5.2 have also been identified, for the purpose of grouping together ‘non-voting’ and ‘voting’ matters.

It would be more consistent for “Petitions, presentations and deputations” and “Questions by members of which due notice has been given (without discussion)” to immediately follow “public question time”, so that input from the public that does not require voting by Council is dealt with together. These three ‘non-voting’ items have now been grouped together.

Under regulation 7(2) of the *Local Government (Administration) Regulations 1996*, any matter that requires a decision of Council should be dealt with after “public question time”. The item “Applications for leave of absence” is a matter that must be voted on. Accordingly, the “Applications for leave of absence” item has been moved to after the “Confirmation of minutes” item, and these now form part of the voting matters that follow the non-voting matters.

Notices of Motion

The Standing Orders currently provide that a member must provide a notice of motion at least 10 clear days before the meeting at which the motion is moved. It is generally expected and understood that this means a notice of motion should be provided, at a minimum, on the Friday before the Agenda Briefing Session in order for it to be included on the Council Agenda, which is also typically released on that Friday. However, it is open to interpretation that a notice of motion could arguably validly be provided (within the 10 days) on the Saturday. This would create both administrative and governance issues. If accepted, the notice of motion would need to be included on the Council Agenda as a “late item”. It could also not be included in the initial public advertising for the Council meeting due to publication deadlines.

It could still be included as an additional item in the follow up public advertisement, however, this would only be on the day of the Council meeting. These all serve to potentially impact upon the transparency of, and the public participation in, the potential notice of motion.

It is recommended that clause 5.8 (2) is amended to 12 clear days, which would make clear that a notice of motion must be provided by the Thursday prior to the release of the Council agenda on the Friday and the Agenda Briefing Session (thus allowing it to be included in the original published agenda, and advertised publicly).

CONCLUSION

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

OPTIONS

As the City has previously provided an undertaking to the JSC in relation to this matter it is not recommended to pursue other options with regard to those matters contained in the undertaking.

However, in relation to the other matters, the Council could choose to vary the provisions of the Amendment Local Law in any number of ways. This is, however, the form of local law recommended at this stage for the reasons stated in the report. There will be further opportunity for making changes to the Amendment Local Law following advertising and consultation, provided the changes are not significantly different from what is currently proposed. If any changes are of a significant nature the Amendment Local Law would need to be re-advertised.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Within two weeks of the Council decision to commence the law-making process, the Amendment Local Law will be advertised for public comment. The statutory consultation period is a minimum of six weeks and following the close of the advertising period a report will be submitted to the Council for further consideration which, depending on the number and nature of submissions received, could be within three months.

OFFICER RECOMMENDATION

- (1) That the Council commences the law-making process, for the *City of Busselton Standing Orders Amendment Local Law 2018*, the purpose and effect of the local law being as follows:

Purpose: To clarify requirements in relation to public question time and to make minor drafting and operational amendments.

Effect: To ensure public question time is effective and to improve the operation of the Standing Orders.

- (2) That the Council authorises the CEO to carry out the law-making procedure under section 3.12(3) of the *Local Government Act*, by –
 - (i) giving Statewide public notice and local public notice of the Amendment Local Law; and
 - (ii) giving a copy of the Amendment Local Law and public notice to the Minister for Local Government.

- (3) That the CEO, after the close of the public consultation period, submits a report to the Council on any submissions received on the Amendment Local Law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the Act.

LOCAL GOVERNMENT ACT 1995

City of Busselton

Standing Orders Amendment Local Law 2018

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Busselton resolved on **[insert date]** to make the following local law.

1. Title

This is the *City of Busselton Standing Orders Amendment Local Law 2018*.

2. Commencement

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

3. Principal Local Law

This local law amends the *City of Busselton Standing Orders Local Law 2018*.

4. Clause 5.2(1) replaced

Delete clause 5.2(1) and insert:

- (1) Unless otherwise decided by the presiding member or the Council, the order of business at any ordinary meeting of the Council is to be as follows—
 1. Declaration of opening/Acknowledgement of Country/Acknowledgement of visitors/Disclaimer
 2. Attendance
 - 2.1 Apologies
 - 2.2 Approved leave of absence
 3. Prayer
 4. Disclosure of interests
 5. Announcements by the presiding member (without discussion)
 6. Question time for public
 - 6.1 Response to previous questions taken on notice
 - 6.2 Question time for public
 7. Receiving of petitions, presentations and deputations
 - 7.1 Petitions
 - 7.2 Presentations
 - 7.3 Deputations
 8. Questions by members of which due notice has been given (without discussion)
 9. Confirmation of minutes
 10. Applications for leave of absence
 11. Items brought forward for the convenience of those in the public gallery
 12. Reports of committee meetings
 13. Reports
 14. Motions of which previous notice has been given
 15. Urgent business
 16. Confidential matters
 17. Closure

5. Clause 5.8 amended

In clause 5.8(2) delete “10” and insert:

6. Clause 5.10 amended

In clause 5.10(6) delete “Local Government”.

7. Clause 6.7 amended

In clause 6.7(6)(c) after “law” insert:

, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory, or does not breach these standing orders or any other law

8. Clause 8.16 amended

In clause 8.16(1) delete “16” and insert:

15

9. Clause 10.18 amended

In clause 10.18(2) delete “, the member”.

10. Clause 11.6 amended

In clause 11.6(2) delete “5.6” and insert:

5.10

Dated: [insert date]

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

GRANT DOUGLAS HENLEY
Mayor

MICHAEL STEPHEN LEE ARCHER
Chief Executive Officer

City of Busselton

STANDING ORDERS LOCAL LAW 2018

Local Government Act 1995

City of Busselton

Standing Orders Local Law 2018

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Local Government Act 1995

City of Busselton

STANDING ORDERS LOCAL LAW 2018

Under the powers conferred on it by the *Local Government Act 1995* and under all other relevant powers, the Council of the City of Busselton resolved on 14 March 2018 to make this local law.

Part 1 - Preliminary

1.1 Short title

This local law is the *City of Busselton Standing Orders Local Law 2018*.

1.2 Commencement

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

1.3 Application and intent

- (1) This local law provides rules and guidelines which apply to the conduct of meetings of the Council and its committees and to meetings of electors.
- (2) All meetings are to be conducted in accordance with the Act, the Administration Regulations and this local law.
- (3) This local law is intended to result in—
 - (a) better decision-making by the Council and committees;
 - (b) the orderly conduct of meetings dealing with Council business;
 - (c) better understanding of the process of conducting meetings; and
 - (d) the more efficient and effective use of time at meetings.

1.4 Terms used

In this local law unless the context otherwise requires—

75% majority has the meaning given to it in the Act;

“75% majority” means a majority comprising enough of the members for the time being of the council for their number to be at least 75% of the number of offices (whether vacant or not) of member of the council.

[Section 1.4 of the Act]

absolute majority has the meaning given to it in the Act;

“absolute majority” means –

- (a) in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be more than 50% of the number of offices (whether vacant or not) of member of the council;
- (b) in relation to any other body, means a majority comprising enough of the persons for the time being constituting the body for their number to be more than 50% of the number of offices (whether vacant or not) on the body.

[Section 1.4 of the Act]

Administration Regulations means the *Local Government (Administration) Regulations 1996*;

Act means the *Local Government Act 1995*;

CEO means the Chief Executive Officer of the City;

City means the City of Busselton;

Code of Conduct means the City’s code of conduct, applying to members and employees, as in force from time to time;

committee means a committee of the Council established under section 5.8 of the Act;

Council means the council of the City;

Deputy Mayor means the deputy mayor of the City;

employee means an employee of the City;

“employee” means a person employed by a local government under section 5.36.

[See section 1.4 of the Act]

Mayor means the mayor of the City;

meeting means a meeting of the Council or a committee, as the context requires;

member means—

- (a) in relation to the Council, an elected member of the City;
- (b) in relation to a committee, a member of that committee;

Minister means the Minister responsible for administering the Act;

presiding member means—

- (a) in respect of the Council, the person presiding under section 5.6 of the Act; and
- (b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;

Rules of Conduct Regulations means the *Local Government (Rules of Conduct) Regulations 2007*;

simple majority means more than 50% of the members present and voting;

special majority has the meaning given to it in the Act;

Section 1.10 of the Act states –

1.10. Decisions by special majority

The footnote “**Special majority required**” applying to a power conferred in this Act on a local government, means that —

- (a) if there are more than 11 offices of member of the council, the power can only be exercised by, or in accordance with, a decision of a 75% majority of the council; or
- (b) if there are not more than 11 offices of member of the council, the power can only be exercised by, or in accordance with, a decision of an absolute majority of the council.

substantive motion means an original motion or an original motion as amended, but does not include an amendment or a procedural motion; and

these standing orders means the provisions of this local law.

Note; unless otherwise defined in this local law, the terms used in this local law have the meaning given to them in the Act, the Administration Regulations and the Rules of Conduct Regulations (see section 44 of the Interpretation Act 1984).

Note: Provisions of the Act, regulations and other legislation

- (1) In this local law –
 - (a) provisions of the Act and regulations, and of other legislation, are reproduced in a boxed format; and
 - (b) various notes are also included.
- (2) The purpose of reproducing these provisions, and of including the notes, is to assist the reader in the interpretation or administration of this local law.
- (3) The reproduced provisions of the Act and regulations and other legislation, and the notes –
 - (a) are to be treated as footnotes and are not part of this local law (see section 32(2) of the *Interpretation Act 1984*); and,
 - (b) reproduce only the provisions, or refer only to the provisions, that were in force at the time that the Council resolved to adopt this local law and, therefore, may not necessarily be accurate at a future date.

1.5 Repeal

The *Shire of Busselton Standing Orders Local Law 2010*, published in the *Government Gazette* on 9 May 2011, is repealed.

Part 2 - Establishment and membership of committees

2.1 Establishment of committees

- (1) The establishment of committees is dealt with in the Act.

A local government may establish* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

**Absolute majority required.*

[Section 5.8 of the Act]

- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include—
- (a) the terms of reference of the committee;
 - (b) either—
 - (i) the names or titles of the members, employees and any other persons to be appointed to the committee; or
 - (ii) the number of members, officers and any other persons to be appointed to the committee and a provision that they be appointed under a separate resolution; and
 - (c) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

2.2 Types of committees

The types of committees are dealt with in the Act.

- (1) In this section –
'other person' means a person who is not a council member or an employee.
- (2) A committee is to comprise –
- (a) council members only;
 - (b) council members and employees;
 - (c) council members, employees and other persons;
 - (d) council members and other persons;
 - (e) employees and other persons; or

- (f) other persons only.

[Section 5.9 of the Act]

2.3 Delegation of some powers and duties to certain committees

The delegation of some powers and duties to certain committees is dealt with in the Act.

- (1) Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation.
- *Absolute majority required.*
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Without limiting the application of sections 58 and 59 of the *Interpretation Act 1984* –
- (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
- (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.
- (4) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.

[Section 5.16 of the Act]

2.4 Limits on delegation of powers and duties to certain committees

The limits on the delegation of powers and duties to certain committees are dealt with in the Act.

- (1) A local government can delegate –
- (a) to a committee comprising council members only, any of the council's powers or duties under this Act except –
- (i) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government; and
- (ii) any other power or duty that is prescribed;
- (b) to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and
- (c) to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of –
- (i) the local government's property; or

- (ii) an event in which the local government is involved.
- (2) A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).

[Section 5.17 of the Act]

2.5 Appointment of committee members

The appointment of committee members is dealt with in the Act.

- (1) A committee is to have as its members –
 - (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons who are appointed to be members of the committee under subsection (4) or (5).

** Absolute majority required.*
- (2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.
- (3) Section 52 of the *Interpretation Act 1984* applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.
- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish –
 - (a) to be a member of the committee; or
 - (b) that a representative of the CEO be a member of the committee,

the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

[Section 5.10 of the Act]

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

- (1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until –
- (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be;
 - (b) the person resigns from membership of the committee;
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day,
- whichever happens first.
- (2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until –
- (a) the term of the person's appointment as a committee member expires;
 - (b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day,
- whichever happens first.
- [Section 5.11 of the Act]

2.7 Appointment of deputies

The appointment of a person to be a deputy of a member of a committee is dealt with in the Act.

- (1) The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.
- *Absolute majority required.
- (2) A person who is appointed as a deputy of a member of a committee is to be –
- (a) if the member of the committee is a council member – a council member; or
 - (b) if the member of the committee is an employee – an employee; or
 - (c) if the member of the committee is not a council member or an employee- a person who is not a council member or an employee; or
 - (d) if the member of the committee is a person appointed under section 5.10(5) – a person nominated by the CEO.
- (3) A deputy of a member of a committee may perform the functions of the member

when the member is unable to do so by reason of illness, absence or other cause.

- (4) A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.

[Section 5.11A of the Act]

2.8 Resignation of committee members

The resignation of committee members is dealt with in the Administration Regulations.

A committee member may resign from membership of the committee by giving the CEO or the committee's presiding member written notice of the resignation.

[Regulation 4 of the Administration Regulations]

2.9 Register of delegations to committees

The register of delegations to committees is dealt with in the Act.

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

[Section 5.18 of the Act]

2.10 Committees to report

A committee—

- (a) is answerable to the Council;
- (b) is to report on its activities when, and to the extent, required by the Council; and
- (c) is to prepare and submit to the Council reports containing recommendations.

Part 3 - Calling and convening meetings

3.1 Ordinary and special Council meetings

- (1) Ordinary and special Council meetings are dealt with in the Act.

- (1) A council is to hold ordinary meetings and may hold special meetings.
- (2) Ordinary meetings are to be held not more than 3 months apart.
- (3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.

[Section 5.3 of the Act]

- (2) An ordinary meeting of the Council is for the purpose of considering and dealing with the ordinary business of the Council.

- (3) A special meeting of the Council may be held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

3.2 Calling Council meetings

The calling of Council meetings is dealt with in the Act.

An ordinary or a special meeting of a Council is to be held -

- (a) if called for by either -
 - (i) the mayor; or
 - (ii) at least 1/3 of the councillors, in a notice to the CEO setting out the date and purpose of the proposed meeting; or
- (b) if so decided by the Council.

[Section 5.4 of the Act]

3.3 Convening Council meetings

- (1) The convening of a Council meeting is dealt with in the Act.

- (1) The CEO is to convene an ordinary meeting by giving each council member at least 72 hours' notice of the date, time and place of the meeting and an agenda for the meeting.
- (2) The CEO is to convene a special meeting by giving each council member notice, before the meeting, of the date, time, place and purpose of the meeting.

[Section 5.5 of the Act]

Sections 9.50 to 9.54 of the *Local Government Act 1995* and sections 75 and 76 of the *Interpretation Act 1984* deal with how documents can be given to a person. Under these provisions, notice of a meeting may be given to a council member by –

- (a) personally handing the notice to the member;
- (b) sending it by post to the last known address of the member; or
- (c) leaving it for the member at his or her usual or last known place of abode or, if he or she is the principal of a business, at his or her usual or last known place of business.

- (2) Subject to subclause (3), the CEO is to give at least 72 hours notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the Council.
- (3) Where, in the opinion of the Mayor or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

3.4 Calling committee meetings

A meeting of a committee is to be held—

- (a) if called for in a verbal or written request to the CEO by the Mayor or the presiding member of the committee, advising the date and purpose of the proposed meeting;
- (b) if called for by at least one-third of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) in accordance with a decision of the Council or the committee.

3.5 Public notice of meetings

Public notice of meetings is dealt with in the Administration Regulations.

- | | |
|-----|---|
| (1) | At least once each year a local government is to give local public notice of the dates on which and the time and place at which – <ul style="list-style-type: none">(a) the ordinary council meetings; and(b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months. |
| (2) | A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1). |
| (3) | Subject to subregulation (4), if a special meeting of a council is to be open to members of the public then the local government is to give local public notice of the date, time, place and purpose of the special meeting. |
| (4) | If a special meeting of a council is to be open to members of the public but, in the CEO's opinion, it is not practicable to give local public notice of the matters referred to in subregulation (3), then the local government is to give public notice of the date, time, place and purpose of the special meeting in the manner and to the extent that, in the CEO's opinion, is practicable. |

[Regulation 12 of the Administration Regulations]

Part 4 - Presiding member and quorum

Division 1 - Presiding member

4.1 Who presides

Who presides at a Council meeting is dealt with in the Act.

- | | |
|-----|--|
| (1) | The mayor or president is to preside at all meetings of the council. |
| (2) | If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at a meeting of the council in accordance with that section. |
| (3) | If the circumstances mentioned in section 5.34(a) or (b) apply and – |
| (a) | the office of deputy mayor or deputy president is vacant; or |
| (b) | the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president, then, the council is to choose one of the councillors present to preside at the meeting. |
- [Section 5.6 of the Act]

4.2 When the Deputy Mayor can act

When the Deputy Mayor can act is dealt with in the Act.

- | | |
|---|---|
| If – | |
| (a) | the office of mayor or president is vacant; or |
| (b) | the mayor or president is not available or is unable or unwilling to perform the functions of the mayor or president, |
| then the deputy mayor may perform the functions of mayor and the deputy president may perform the functions of president, as the case requires. | |
- [Section 5.34 of the Act]

4.3 Who acts if no Mayor or Deputy Mayor

Who acts if there is no Mayor or Deputy Mayor is dealt with in the Act.

- | | |
|--|--|
| (1) | If the circumstances mentioned in section 5.34(a) or (b) apply and – |
| (a) | the office of deputy mayor or deputy president is vacant; or |
| (b) | the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president, |
| and the mayor or president or deputy will not be able to perform the functions of the mayor or president for a time known to the council, then the council may appoint a councillor to perform during that time the functions of the mayor or president, as the case requires. | |
| (2) | If the circumstances mentioned in section 5.34(a) or (b) apply and - (a) the office of deputy mayor or deputy president is vacant; or (b) the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president, and a person has not been appointed under subsection (1), the CEO, after consultation with, and obtaining the agreement of, 2 councillors selected by the CEO, may perform the functions of mayor or |

president, as the case requires.

[Section 5.35 of the Act]

4.4 Election of presiding members of committees

The election of presiding members of committees is dealt with in the Act.

- (1) The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule –
- (a) to 'office' were references to 'office of presiding member';
 - (b) to 'council' were references to 'committee'; and
 - (c) to 'councillors' were references to 'committee members'.

[Section 5.12(1) of the Act]

Clauses 2 to 5 inclusive of Schedule 2.3 provide as follows:

2. When the council elects the mayor or president

- (1) The office is to be filled as the first matter dealt with —
- (a) at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
 - (b) at the first meeting of the council after an extraordinary vacancy occurs in the office.
- (2) If the first ordinary meeting of the council is more than 3 weeks after an extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.

3. CEO to preside

The CEO is to preside at the meeting until the office is filled.

4. How the mayor or president is elected

- (1) The council is to elect a councillor to fill the office.
- (2) The election is to be conducted by the CEO in accordance with the procedure prescribed.
- (3) Nominations for the office are to be given to the CEO in writing before the meeting or during the meeting before the close of nominations.
- (3a) Nominations close at the meeting at a time announced by the CEO, which is to be a sufficient time after the announcement by the CEO that nominations are about to close to allow for any nominations made to be dealt with.
- (4) If a councillor is nominated by another councillor the CEO is not to accept the nomination unless the nominee has advised the CEO, orally or in writing, that he or she is willing to be nominated for the office.

- (5) The councillors are to vote on the matter by secret ballot as if they were electors voting at an election.
- (6) Subject to clause 5(1), the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with the procedures set out in Schedule 4.1 (which deals with determining the result of an election) as if those votes were votes cast at an election.
- (7) As soon as is practicable after the result of the election is known, the CEO is to declare and give notice of the result in accordance with regulations, if any.
- 5. Votes may be cast a second time**
- (1) If when the votes cast under clause 4(5) are counted there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and the meeting is to be adjourned for not more than 7 days.
- (2) Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes.
- (3) When the meeting resumes the councillors are to vote again on the matter by secret ballot as if they were electors voting at an election.
- (4) The votes cast under subclause (3) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.

[Clauses 2 to 5 inclusive of Schedule 2.3]

4.5 Election of deputy presiding members of committees

The election of deputy presiding members of committees is dealt with in the Act.

The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule –

- (a) to 'office' were references to 'office of deputy presiding member';
- (b) to 'council' were references to 'committee';
- (c) to 'councillors' were references to 'committee members'; and
- (d) to 'mayor or president' were references to 'presiding member'.

[Section 5.12(2)]

Division 2 (clauses 6, 7 and 8) of Schedule 2.3 provides as follows:

6. Definitions

In this Division —

“extraordinary vacancy” means a vacancy that occurs under section 2.34(1);

“the office” means the office of deputy mayor or deputy president.

7. When the council elects the deputy mayor or deputy president

- (1) If the local government has an elector mayor or president the office of deputy mayor or deputy president is to be filled as the first matter dealt with —
 - (a) at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
 - (b) at the first meeting of the council after an extraordinary vacancy occurs in the office.
- (2) If the local government has a councillor mayor or president the office of deputy mayor or deputy president is to be filled —
 - (a) as the next matter dealt with after the mayor or president is elected at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
 - (b) subject to subclause (3), as the first matter dealt with at the first meeting of the council after an extraordinary vacancy occurs in the office.
- (3) If at a meeting referred to in clause 2(1)(b) the deputy mayor or deputy president is elected to be the mayor or president, the resulting extraordinary vacancy in the office is to be filled as the next matter dealt with at the same meeting.

8. How the deputy mayor or deputy president is elected

- (1) The council is to elect a councillor (other than the mayor or president) to fill the office.
- (2) The election is to be conducted in accordance with the procedure prescribed by the mayor or president, or if he or she is not present, by the CEO.
- (3) Nominations for the office are to be given to the person conducting the election in writing before the meeting or during the meeting before the close of nominations.
- (3a) Nominations close at the meeting at a time announced by the person conducting the election, which is to be a sufficient time after the announcement by that person that nominations are about to close to allow for any nominations made to be dealt with.
- (4) If a councillor is nominated by another councillor the person conducting the election is not to accept the nomination unless the nominee has advised the person conducting the election, orally or in writing, that he or she is willing to be nominated for the office.
- (5) The council members are to vote on the matter by secret ballot as if they were electors voting at an election.

- (6) Subject to clause 9(1) the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.
- (7) As soon as is practicable after the result of the election is known, the person conducting the election is to declare and give notice of the result in accordance with regulations, if any.

[Division 2 (clauses 6, 7 and 8) of Schedule 2.3]

4.6 Functions of deputy presiding members

The functions of deputy presiding members are dealt with in the Act.

If, in relation to the presiding member of a committee –

- (a) the office of presiding member is vacant; or
- (b) the presiding member is not available or is unable or unwilling to perform the functions of presiding member,

then the deputy presiding member, if any, may perform the functions of presiding member.

[Section 5.13 of the Act]

4.7 Who acts if no presiding member

Who acts if no presiding member is dealt with in the Act.

If, in relation to the presiding member of a committee –

- (a) the office of presiding member and the office of deputy presiding member are vacant; or
- (b) the presiding member and the deputy presiding member, if any, are not available or are unable or unwilling to perform the functions of presiding member,

then the committee members present at the meeting are to choose one of themselves to preside at the meeting.

[Section 5.14 of the Act]

Division 2 - Quorum

4.8 Quorum for meetings

The quorum for meetings is dealt with in the Act.

The quorum for a meeting of a council or committee is at least 50% of the number of offices (whether vacant or not) of member of the council or the committee.

[Section 5.19 of the Act]

4.9 Reduction of quorum for Council meetings

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in the Act.

- (1) The Minister may reduce the number of offices of member required for a quorum at a council meeting specified by the Minister if there would not otherwise be a quorum for the meeting.
- (2) The Minister may reduce the number of offices of member required at a council meeting to make a decision specified by the Minister if the decision is one which would otherwise be required to be made by an absolute majority and a sufficient number of members would not otherwise be present at the meeting.

[Section 5.7 of the Act]

4.10 Reduction of quorum for committee meetings

The reduction of a quorum for committee meetings is dealt with in the Act.

The local government may reduce* the number of offices of committee member required for a quorum at a committee meeting specified by the local government if there would not otherwise be a quorum for the meeting.

*Absolute majority required.

[Section 5.15 of the Act]

4.11 Procedure where no quorum to begin a meeting

The procedure where there is no quorum to begin a meeting is dealt with in the Administration Regulations.

If a quorum has not been established within the 30 minutes after a council or committee meeting is due to begin then the meeting can be adjourned –

- (a) in the case of a council, by the mayor or president or if the mayor or president is not present at the meeting, by the deputy mayor or deputy president;
- (b) in the case of a committee, by the presiding member of the committee or if the presiding member is not present at the meeting, by the deputy presiding member;
- (c) if no person referred to in paragraph (a) or (b), as the case requires, is present at the meeting, by a majority of members present;
- (d) if only one member is present, by that member; or
- (e) if no member is present or if no member other than the CEO is present, by the CEO or a person authorized by the CEO.

[Regulation 8 of the Administration Regulations]

4.12 Procedure where quorum not present during a meeting

If, at any time during a meeting, a quorum is not present—

- (a) the presiding member is immediately to suspend the proceedings of the meeting for a period of up to 15 minutes;
- (b) if a quorum is not present at the expiry of the suspension period under paragraph (a), the presiding member may either adjourn the meeting to some future time or date or may extend the extension period for a further period of up to 30 minutes; and
- (c) if a quorum is not present at the expiry of the extended period of suspension under paragraph (b), the presiding member is to adjourn the meeting to a later time on the same day or to another day.

4.13 Names to be recorded

At any meeting—

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum,

the names of the members then present are to be recorded in the minutes.

4.14 Adjourned meeting procedures

Where a meeting is adjourned for want of a quorum—

- (a) the names of members who have spoken on a matter that was interrupted by the adjournment are to be recorded in the minutes and clause 8.10 applies when the debate on the matter is resumed; and
- (b) the resumed meeting is to continue from the point at which it was adjourned, unless the presiding member or the meeting determines otherwise.

Part 5 - Business of a meeting

5.1 Business to be specified

- (1) With the exception of urgent business under clause 5.9, no business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda.
- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) No business is to be transacted at a committee meeting other than that specified in the agenda, or in the notice of the meeting as the purpose of the meeting, without the approval of the presiding member or a decision of the committee.
- (4) Where a Council meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Reports at that ordinary meeting.
- (5) Where a committee meeting is adjourned to the next ordinary committee meeting, the business unresolved at the meeting that is adjourned is to be given precedence at that ordinary meeting.

- (6) Where a Council or committee meeting is adjourned to a meeting not described in subclause (4) or (5), no business is to be transacted at that later meeting other than that—
- (a) specified in the notice of the meeting that is adjourned; and
 - (b) which remains unresolved.

5.2 Order of business

- (1) Unless otherwise decided by the presiding member or the Council, the order of business at any ordinary meeting of the Council is to be as follows—
1. Declaration of opening/Acknowledgement of Country/Acknowledgement of visitors/Disclaimer
 2. Attendance
 - 2.1 Apologies
 - 2.2 Approved leave of absence
 3. Prayer
 4. Applications for leave of absence
 5. Disclosure of interests
 6. Announcements by the presiding member (without discussion)
 7. Question time for public
 - 7.1 Response to previous questions taken on notice
 - 7.2 Question time for public
 8. Confirmation of minutes
 9. Receiving of petitions, presentations and deputations
 - 9.1 Petitions
 - 9.2 Presentations
 - 9.3 Deputations
 10. Questions by members of which due notice has been given (without discussion)
 11. Items brought forward for the convenience of those in the public gallery
 12. Reports of committee meetings
 13. Reports
 14. Motions of which previous notice has been given
 15. Urgent business
 16. Confidential matters
 17. Closure
- (2) Unless otherwise decided by the presiding member or the members present, the order of business at any special meeting of the Council or at a committee meeting is to be the order in which that business stands in the notice of, or agenda for, the meeting.
- Note: in exercising its discretion relating to the order of business under subclause (1) and (2), a meeting must comply with the requirements of the Act and Administration Regulations relating to public question time (see clauses 6.3-6.6 below).*
- (3) Despite subclauses (1) and (2), the CEO may include on the agenda of a Council or committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriate to be decided, by that meeting.

5.3 Announcements without discussion

Announcements made by the presiding member at a Council meeting are—

- (a) to inform the Council of matters of importance to the Council;
- (b) to be brief and concise; and
- (c) not to be the subject of any discussion.

5.4 Grant of leave of absence

The grant of leave of absence is dealt with in the Act.

- (1) A council may, by resolution, grant leave of absence, to a member.
 - (2) Leave is not to be granted to a member in respect of more than 6 consecutive ordinary meetings of the council without the approval of the Minister.
 - (3) The granting of the leave, or refusal to grant the leave and reasons for that refusal, is to be recorded in the minutes of the meeting.
 - ...
- [Section 2.25 of the Act]

5.5 Leave of absence

- (1) A member seeking the Council's approval to take leave of absence must give written notice to the CEO prior to the commencement of the meeting.
- (2) The notice referred to in subclause (1) must include the period of leave of absence required and the reasons for seeking the leave.

5.6 Questions on notice

- (1) A member who wishes to ask a question at a meeting of the Council on a matter that is not included in the agenda for that meeting is to give written notice of the specific question to the CEO at least three clear working days before the meeting of the Council.
- (2) The CEO may, after consultation with the member where this is practicable, and with the concurrence of the Mayor, make such amendments to the question so as to clarify the intent of the question and bring the question into due form.
- (3) If the question referred to in subclause (1) relates to a matter within the responsibility of the Council, and is respectful and temperate in its language, it must be tabled at the meeting at item 10 of the order of business as outlined in clause 5.2(1) and the answer is, as far as practicable, to be provided at that meeting of the Council.
- (4) Every question and answer is to be submitted as briefly and concisely as possible, and no discussion on the question or answer is permitted.

5.7 Items brought forward for the convenience of those in the public gallery

Any items on the agenda which are either the subject of a question by members of the public, or where requested by others in attendance, may, with the consent of the presiding member, be brought forward to item 11 of the order of business.

5.8 Motions of which previous notice has been given

- (1) Unless the Act, Administration Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.
- (2) A notice of motion under subclause (1) is to be given at least 10 clear days before the meeting at which the motion is moved.
- (3) A notice of motion is to be accompanied by supporting reasons, must relate to the good government of the district and must be within the lawful responsibilities of the Council.
- (4) The CEO—
 - (a) with the concurrence of the Mayor, may exclude from the agenda any notice of motion deemed to be, or likely to involve, a breach of any of these standing orders or any other written law;
 - (b) is to inform members on each occasion that a notice has been excluded and the reasons for that exclusion; and
 - (c) may, after consultation with the member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form.

Note: under section 5.41(b) of the Act, the CEO may provide to members any information that he or she considers relevant to the notice of motion.

- (5) A motion of which notice has been given is to lapse unless—
 - (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on and the motion is seconded; or
 - (b) the Council or the committee on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lost, notice of a motion in the same terms or to the same effect must not be given again for at least 3 months from the date of such loss, unless supported by an absolute majority of members in writing.

5.9 Urgent business

- (1) A member may move a motion to consider an item of urgent business that is not included in the agenda for that meeting provided that—
 - (a) the presiding member has first consented to the business being raised;
 - (b) the presiding member considers that either—
 - (i) the urgency of the business is such that the business cannot await inclusion in the agenda for the next meeting of the Council; or

- (ii) the delay in referring the business to the next meeting of the Council could have adverse legal, reputational or financial implications for the local government; and
 - (c) other than a motion to revoke a decision, the item of urgent business is presented in the form of a report generated by an employee, a copy of which is to be provided to members prior to the commencement of the meeting.
- (2) Where the Council agrees to consider such item of urgent business, then it is to be dealt with at item 15 of the order of business as outlined in clause 5.2(1).

5.10 Adoption by exception resolution

- (1) In this clause ***adoption by exception resolution*** means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the committee or employee recommendation as the Council resolution.
- (2) The Council may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter—
 - (a) that requires a 75% majority or a special majority;
 - (b) in which an interest has been disclosed;
 - (c) that is a matter on which a member wishes to ask a question;
 - (d) that is a matter on which a member wishes to make a statement; or
 - (e) that is a matter on which a member wishes to move a motion that is different to the recommendation.
- (4) A member who wishes to ask a question or make a statement in relation to a matter that would otherwise be within an adoption by exception motion should, as far as practicable, notify the CEO by 3pm on the day before the meeting.
- (5) A member who wishes to move a motion that is different to the recommendation in a matter that would otherwise be within an adoption by exception resolution should, as far as practicable, give notice of the motion that –
 - (a) is in writing;
 - (b) identifies the matter and gives the reason or reasons for the motion; and
 - (c) is given to the CEO by 3pm on the day before the meeting.
- (6) Where a member intends to move a motion referred to in sub-clause (5), the CEO must be given an opportunity to provide advice to the Council prior to consideration of the motion, in accordance with section 5.41 (b) of the Local Government Act.

The CEO's functions are to —

- (a)
- (b) ensure that advice and information is available to the council so that informed decisions can be made;

[Section 5.41(b) of the Act]

Part 6 - Public participation

6.1 Meetings generally open to the public

Meetings being generally open to the public is dealt with in the Act.

- | | |
|-------|--|
| (1) | Subject to subsection (2), the following are to be open to members of the public– |
| (a) | all council meetings; and |
| (b) | all meetings of the committee to which a local government power or duty has been delegated. |
| (2) | If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following – |
| (a) | a matter affecting an employee or employees; |
| (b) | the personal affairs of any person; |
| (c) | a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; |
| (d) | legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; |
| (e) | a matter that if disclosed, would reveal – |
| (i) | a trade secret; |
| (ii) | information that has a commercial value to a person; or |
| (iii) | information about the business, professional, commercial or financial affairs of a person, |
| | where the trade secret or information is held by, or is about, a person other than the local government; |
| (f) | a matter that if disclosed, could be reasonably expected to – |
| (i) | impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; |
| (ii) | endanger the security of the local government's property; or |
| (iii) | prejudice the maintenance or enforcement of a lawful |

	measure for protecting public safety;
(g)	information which is the subject of a direction given under section 23(1a) of the <i>Parliamentary Commissioner Act 1971</i> ; and
(h)	such other matters as may be prescribed.
(3)	A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.
[Section 5.23 of the Act]	

6.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close to members of the public a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
 - (a) the presiding member is to direct everyone to leave the meeting except -
 - (i) the members;
 - (ii) any employee of the City unless specified in a resolution; and
 - (iii) any other person specified in a resolution; and
 - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.10 is to be suspended unless the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice of the relevant motion.
- (7) Once the meeting is reopened to members of the public, the presiding member is to ensure that, if any member of the public returns to the meeting, any resolution made while the meeting was closed is to be read out or summarised, including the details of any voting recorded.

6.3 Question time for the public

Question time for the public is dealt with in the Act.

(1)	Time is to be allocated for questions to be raised by members of the public and responded to at –
(a)	every ordinary meeting of a council; and

- (b) such other meetings of councils or committees as may be prescribed.
- (2) Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations.

[Section 5.24 of the Act]

6.4 Question time for the public at certain meetings

Question time for the public at certain meetings is dealt with in the Administration Regulations.

For the purposes of section 5.24(1)(b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are –

- (a) every special meeting of a council;
- (b) every meeting of a committee to which the local government has delegated a power or duty.

[Regulation 5 of the Administration Regulations]

6.5 Minimum question time for the public

Minimum question time for the public is dealt with in the Administration Regulations.

- (1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.
- (2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in subregulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.

[Regulation 6 of the Administration Regulations]

6.6 Procedures for question time for the public

Procedures for question time for the public are dealt with in the Administration Regulations.

- (1) Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) are to be determined –
 - (a) by the person presiding at the meeting; or
 - (b) in the case where the majority of members of the council or committee present at the meeting disagree with the person presiding, by the majority of those members,

having regard to the requirements of subregulations (2) and (3).
- (2) The time allocated to the asking of and responding to questions raised by

	members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the council or the committee, as the case may be.
(3)	Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.
(4)	Nothing in subregulation (3) requires – <ul style="list-style-type: none">(a) a council to answer a question that does not relate to a matter affecting the local government;(b) a council at a special meeting to answer a question that does not relate to the purpose of the meeting; or(c) a committee to answer a question that does not relate to a function of the committee.
(5)	If, during the time allocated for questions to be raised by members of the public and responded to, a question relating to a matter in which a relevant person has an interest, as referred to in section 5.60, is directed to the relevant person, the relevant person is to – <ul style="list-style-type: none">(a) declare that he or she has an interest in the matter; and(b) allow another person to respond to the question.
[Regulation 7 of the Administration Regulations]	

6.7 Other procedures for question time for the public

- (1) A member of the public who wishes to ask a question during question time must first state his or her name and address.
- (2) A question may be taken on notice for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
 - (a) a response is given to the member of the public in writing prior to the next meeting; and
 - (b) a summary of the response is presented to, and recorded in the minutes of, the next meeting.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person may -
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.
- (5) Each member of the public with one or more questions is to be given an equal and fair opportunity, to be determined by the presiding member, to ask the question or questions.
- (6) The presiding member may decide that a question is not to be responded to where—

- (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
- (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the statement as a question;
- (c) the member of the public asks a question that is offensive or defamatory in nature or is one which, if asked by a member, would be in breach of these standing orders or any other law; and
- (d) the presiding member is of the view that the question or questions have already been answered or the matter adequately dealt with.

6.8 Distinguished visitors

If a distinguished visitor is present at a meeting of the Council or a committee, the presiding member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor is to be recorded in the minutes.

6.9 Petitions

- (1) A petition, in order to be considered by the Council, is to—
 - (a) be addressed to the Mayor;
 - (b) be made by electors of the district;
 - (c) state the request on each page of the petition;
 - (d) contain the name, address and signature of each elector making the request;
 - (e) contain a summary of the reasons for the request;
 - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given; and
 - (g) be respectful and temperate in its language.
- (2) Despite subclause (1), the presiding member may allow a petition to be considered in circumstances where the petition complies with the majority of the requirements in subclause (1).
- (3) In response to a petition presented to it, the Council may determine—
 - (a) that the petition be received;
 - (b) that the petition be rejected;
 - (c) that the petition be received and referred to the CEO to prepare a report to the Council or a committee; or
 - (d) that the petition be received and referred to the CEO for action.

- (4) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless—
 - (a) the matter is the subject of a report included in the agenda; and
 - (b) the Council has considered the issues raised in the petition.

6.10 Presentations by parties with an interest

- (1) Once an agenda of a meeting of the Council has been issued, parties with a demonstrable interest in any item listed on the agenda for discussion may seek to present to the Council at the time during the meeting allocated for this purpose.
- (2) A person must demonstrate that they are a party with an interest in an item on the agenda by stating their name, the item to which they wish to speak, whether or not they are in agreement with the recommendation in the agenda and they are—
 - (a) the applicant or one duly authorised representative of the applicant;
 - (b) an adjoining neighbour sharing a common length of boundary or directly opposite neighbour of the affected property;
 - (c) one person duly representing a community-based organisation where an item on the agenda has broad community impact and is associated with the objectives of the organisation; or
 - (d) such other person as in the opinion of the presiding member has a significant direct interest or is duly representing those that have a significant direct interest in the item.
- (3) A person addressing the Council on an agenda item will be limited to a period of 5 minutes unless the person is granted an extension by the presiding member.
- (4) Where multiple parties wish to present on an item, the applicant (or their duly authorised representative) is to be given the opportunity to give the final presentation on the item.
- (5) Members may, through the presiding member, question a person addressing the Council on the item but no debate or general discussion will be permitted.

6.11 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council is to either—
 - (a) apply, before the meeting, to the CEO for approval; or
 - (b) with the approval of the presiding member, at the meeting, address the Council.
- (2) The CEO may either—
 - (a) approve the request and invite the deputation to attend a meeting of the Council; or
 - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the Council resolves otherwise, a deputation invited to attend a Council meeting—

- (a) is not to exceed 5 people, only 2 of whom may address the Council although others may respond to specific questions from members;
 - (b) is not to address the Council for a period exceeding 10 minutes without the agreement of the Council; and
 - (c) may seek leave of the presiding member for additional members of the deputation to be allowed to speak.
- (4) Any matter which relates to an item on the agenda and which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

6.12 Participation at committee meetings

- (1) In this clause a reference to a *person* is to a person who—
- (a) is entitled to attend a committee meeting;
 - (b) attends a committee meeting; and
 - (c) is not a member of that committee.
- (2) A member may attend, as an observer, any meeting of a committee of which he or she is not a member or the deputy of a member, but is to sit in an area set aside by the CEO for observers separated from the committee members.
- (3) Without the consent of the presiding member, a person must not address a committee meeting.
- (4) The presiding member of a committee may allow a person to make an oral address to the committee for up to 5 minutes.
- (5) A person addressing the committee with the consent of the presiding member must cease that address immediately after being directed to do so by the presiding member.
- (6) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the committee meeting.

6.13 Confidentiality of information withheld

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Administration Regulations is to be -
- (a) identified in the agenda of a Council or committee meeting under the item “Confidential matters”, along with the reason for the confidentiality as dealt with in the Act; and
 - (b) kept confidential by employees and members until, in the opinion of the CEO, or the Council or the committee (as the case may be), the reason for confidentiality ceases to exist.
- (2) A member or an employee in receipt of confidential information under subclause (1), or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public, must not disclose any of that information to any person other than another

member or an employee to the extent necessary for the purpose of carrying out his or her duties.

- (3) Subclause (2) does not apply where a member or employee discloses the information to a legal practitioner or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities, or where disclosure is required or permitted by law.

Note: Regulation 6 of the Rules of Conduct Regulations states -

6. Use of information

- (1) In this regulation —

“closed meeting” means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;

“confidential document” means a document marked by the CEO to clearly show that the information in the document is not to be disclosed;

“non-confidential document” means a document that is not a confidential document.

- (2) A person who is a council member must not disclose —

- (a) information that the council member derived from a confidential document; or
- (b) information that the council member acquired at a closed meeting other than information derived from a non-confidential document.

- (3) Subregulation (2) does not prevent a person who is a council member from disclosing information —

- (a) at a closed meeting; or
- (b) to the extent specified by the council and subject to such other conditions as the council determines; or
- (c) that is already in the public domain; or
- (d) to an officer of the Department; or
- (e) to the Minister; or
- (f) to a legal practitioner for the purpose of obtaining legal advice; or
- (g) if the disclosure is required or permitted by law.

6.14 Recording of proceedings

- (1) A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of a meeting without the permission of the presiding member.

- (2) If the presiding member gives permission under subclause (1), the presiding member must advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.
- (3) Subclause (1) does not apply if the recording is taken by or at the direction of the CEO for the purpose of taking minutes.
- (4) In the case of a recording taken under subclause (3), the CEO must advise the meeting, immediately before the recording is commenced, that the meeting is being recorded for the purpose of taking minutes.

6.15 Prevention of disturbance

- (1) A reference in this clause to a *person* is to a person other than a member.
- (2) A person addressing a meeting must extend due courtesy and respect to the Council or the committee and the processes under which it operates and must comply with any direction by the presiding member.
- (3) A person present at or observing a meeting must not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person must ensure that his or her mobile telephone, pager or other audible device is not switched on or used during any meeting.
- (5) The presiding member may warn a person who fails to comply with this clause.
- (6) If—
 - (a) after being warned, the person again acts contrary to this clause, or to any of these standing orders; or
 - (b) a person refuses or fails to comply with a direction by the presiding member,the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.
- (7) A person who is ordered to leave the meeting room and fails to do so may, by order of the presiding member, be removed from the meeting room and, if the presiding member orders, from the premises.

Note: section 75 of the *Criminal Code* states -

Any person who by violence, or by threats or intimidation of any kind, hinders or interferes with the free exercise of any political right by another person, is guilty of a crime, and is liable to imprisonment for 3 years.

Part 7 - Questions during debate

7.1 Questions during debate

- (1) At any time during debate on a motion prior to the mover of the motion commencing the right of reply, a member may ask a question in relation to the motion and, with the consent of the presiding member, may ask one or more further questions.

- (2) Where possible the CEO or the CEO's nominee is to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the respondent may ask that—
 - (a) the question is taken on notice; and
 - (b) the answer to the question is given to the members as soon as practicable.
- (3) Every question and answer—
 - (a) is to be brief and concise; and
 - (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (4) In answering any question, a respondent may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting, correct, add to or otherwise amend the original answer.

Part 8 - Conduct of members

8.1 Members to be in their proper places at Council meetings

- (1) At the first meeting held after each election day, each member is to be allocated a position at the Council table by a ballot conducted by the CEO after considering requests for a specific allocation for special circumstances.
- (2) Each member is to occupy his or her allotted position at each Council meeting.

8.2 Respect to the presiding member

After the business of a meeting has commenced, a member must not enter or leave the meeting without first paying due respect to the presiding member.

8.3 Titles to be used

A speaker, when referring to the Mayor, Deputy Mayor or presiding member, or a member or employee, must use the title of that person's office.

8.4 Entering or leaving a meeting

During the course of a meeting, a member must not enter or leave the meeting without first giving an appropriate indication, in order to facilitate the recording in the minutes of the time of entry or departure.

8.5 Members to indicate their intention to speak

A member who wishes to speak at a meeting must indicate his or her intention to speak by raising his or her hand or by another method agreed by the presiding member.

8.6 Members to rise

A member, other than the presiding member, asking a question or taking part in discussion or a debate at a meeting must stand, except when prevented from doing so by sickness or infirmity.

8.7 Priority of speaking

- (1) Where two or more members indicate, at the same time, their intention to speak, the presiding member is to decide which member is entitled to be heard first.
- (2) A decision of the presiding member under subclause (1) is not open to discussion or dissent.
- (3) A member must cease speaking immediately after being asked to do so by the presiding member.

8.8 Presiding member may take part in debates

The presiding member may take part in a discussion of any matter before the meeting, subject to compliance with this local law.

8.9 Relevance

- (1) A member must restrict his or her remarks to the motion under discussion, or to a personal explanation or point of order.
- (2) The presiding member, at any time, may—
 - (a) call the attention of the meeting to—
 - (i) any irrelevant, repetitious, offensive or insulting language by a member; or
 - (ii) any breach of order by a member; and
 - (b) direct that member, if speaking, to discontinue his or her speech.
- (3) A member must comply with the direction of the presiding member under subclause (2) by immediately ceasing to speak.

8.10 Speaking twice

- (1) A member must not address the meeting more than once on any motion or amendment except—
 - (a) as the mover of a substantive motion or an amendment, to exercise a right of reply;
 - (b) to raise a point of order; or
 - (c) to make a personal explanation.
- (2) A member who asks a question, or who makes a request or responds to a request under clause 10.7, has not addressed the meeting for the purpose of this clause.
- (3) This clause does not apply to a committee meeting unless the committee by resolution decides that it is to apply to the meeting or a part of the meeting.

8.11 Duration of speeches

- (1) A member must not speak on any matter for more than five minutes without the consent of the members which, if given, is to be given without debate.

- (2) An extension under this clause cannot be given to allow a member's total speaking time to exceed ten minutes.

8.12 No speaking after conclusion of debate

A member must not speak on any motion or amendment—

- (a) after the mover has replied; or
- (b) after the motion or amendment has been put.

8.13 No interruption

A member must not interrupt another member who is speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.14; or
- (d) to move a procedural motion that the member be no longer heard.

8.14 Personal explanations

- (1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking is to indicate to the presiding member his or her intention to make a personal explanation.
- (2) The presiding member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.
- (3) A member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

8.15 No reopening of discussion

A member must not reopen discussion on any decision, except to move that the decision be revoked or changed (see Part 15).

8.16 Adverse reflection

- (1) A member must not reflect adversely on a decision of the Council or committee except on a motion that the decision be revoked or changed (see Part 16).
- (2) A member must not—
 - (a) reflect adversely on the character or actions of another member or employee; or
 - (b) impute any motive to a member or employee,

unless the meeting resolves, without debate, that the matter then before the meeting cannot otherwise be adequately considered.

- (3) A member must not use offensive or insulting expressions in reference to any member, employee or other person.
- (4) If a member or CEO specifically requests, immediately after their use, that any particular words used by a member that are in breach of this clause be recorded in the minutes, the member making the request is to provide the words to the meeting for verification and the presiding member is to cause the words used to be taken down and recorded in the minutes.

Note: Regulation 10 of the Local Government (Rules of Conduct) Regulations 2007 states:

- 10. Relations with local government employees
 - (1) A person who is a council member must not —
 - (a) direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee; or
 - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a person who is a local government employee in the person's capacity as a local government employee.
 - (2) Subregulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.
 - (3) If a person, in his or her capacity as a council member, is attending a council meeting, committee meeting or other organised event and members of the public are present, the person must not, either orally, in writing or by any other means —
 - (a) make a statement that a local government employee is incompetent or dishonest; or
 - (b) use offensive or objectionable expressions in reference to a local government employee.
 - (4) Subregulation (3)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV.

8.17 Withdrawal of offensive language

A member who, in the opinion of the presiding member, uses an expression which—

- (a) in the absence of a resolution under clause 8.16(2)—
 - (i) reflects adversely on the character or actions of another member or an employee; or
 - (ii) imputes any motive to another member or an employee; or
- (b) is offensive or insulting,

must, when directed by the presiding member, withdraw the expression and make a satisfactory apology.

Part 9 - Preserving order

9.1 Presiding member to preserve order

- (1) The presiding member is to preserve order, and, whenever he or she considers necessary, may call any member to order.
- (2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, must immediately sit down and every member present must preserve strict silence so that the presiding member may be heard without interruption.
- (3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.8, but to preserve order.

9.2 Point of order

- (1) A member may at any time, draw the attention of the presiding member (including as an objection, by way of a point of order), to a breach of—
 - (a) any of these standing orders; or
 - (b) any other written law.
- (2) Examples of valid points of order are –
 - (a) a speaker's remarks not being relevant to the motion being debated (see clause 8.9); and
 - (b) a speaker's use of offensive or insulting expressions (see clause 8.16(3)).
- (3) Despite anything in this local law to the contrary, a point of order—
 - (a) takes precedence over any discussion; and
 - (b) until determined, suspends the consideration or discussion of any other matter.

9.3 Procedures on a point of order

- (1) A member who is addressing the presiding member must not be interrupted except on a point of order.
- (2) A member interrupted on a point of order must cease speaking and resume his or her seat until—
 - (a) the member raising the point of order has been heard; and
 - (b) the presiding member has ruled on the point of order,and, if permitted, the member who has been interrupted may then proceed.

9.4 Ruling by the presiding member

- (1) The presiding member is to rule on any point of order which is raised by either upholding or rejecting the point of order.

- (2) A ruling by the presiding member on a point of order—
 - (a) is not to be the subject of debate or comment; and
 - (b) is to be final unless the majority of members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the presiding member rules that—
 - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
 - (b) a statement made or act done by a member is out of order, the presiding member may direct the member to make an explanation, retraction or apology.

9.5 Continued breach of order

If a member—

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) refuses to comply with a direction from the presiding member (such as a direction under clause 8.9(2)(b) or 9.4(3)(b)),

the presiding member may direct the member to refrain from taking any further part in the debate on the matter then before the meeting, other than by voting, and the member must comply with that direction.

9.6 Right of presiding member to adjourn

- (1) For the purpose of preserving or regaining order, the presiding member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the presiding member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

Part 10 - Debate of substantive motions

10.1 Motions to be stated and in writing

A member who wishes to move a substantive motion or an amendment to a substantive motion—

- (a) is to state the substance of the motion before speaking to it; and
- (b) is to put the motion or amendment in writing if he or she is required to do so by the presiding member.

10.2 Motions to be supported

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.

- (2) A motion to revoke or change a decision made at a Council or committee meeting is not open to debate unless the motion has the support required under regulation 10 of the Administration Regulations.

10.3 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting if any member opposes it.
- (2) If no member opposes the motion, the presiding member may immediately proceed to put the matter to the vote.

10.4 Only one substantive motion at a time

The presiding member is not to accept a substantive motion while another substantive motion is being debated.

10.5 Complex motions

The presiding member may require that a complex substantive motion, or a complex amendment to a substantive motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

10.6 Order of call in debate

- (1) The presiding member is to call speakers to a substantive motion in the following order—
 - (a) the mover to state the motion;
 - (b) a seconder to the motion;
 - (c) the mover to speak to the motion;
 - (d) the seconder to speak to the motion;
 - (e) a speaker against the motion;
 - (f) a speaker for the motion;
 - (g) other speakers against and for the motion, alternating where possible; and
 - (h) mover takes right of reply which closes debate.
- (2) When called on to speak, the seconder to a motion may elect to reserve that right and speak to the motion at a later time when a speaker for the motion is called.

10.7 Member may require motion or amendment to be read

A member may require the motion or amendment or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member who is speaking.

10.8 Consent of seconder required for alteration

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

10.9 Number and order of amendments

- (1) No more than three amendments may be proposed to a substantive motion unless the presiding member determines that further amendments are to be permitted.
- (2) Where an amendment is moved to a substantive motion, a second or subsequent amendment is not to be moved or considered until the first amendment has been withdrawn, carried or lost.
- (3) An amendment may be proposed to a substantive motion either in its original terms or as subsequently amended.

10.10 When amendment may be moved

A member may move an amendment to a motion during the debate on the motion, except—

- (a) when the mover has been called by the presiding member to exercise the right of reply; or
- (b) during debate on a procedural motion.

10.11 Form of an amendment

An amendment must add, delete, or substitute words to the substantive motion.

10.12 Amendment must not negate original motion

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

10.13 Relevance of amendments

Each amendment must be relevant to the motion in respect of which it is moved.

10.14 Mover of motion may speak on amendment

Any member, including the mover of a motion, may speak during debate on an amendment.

10.15 Effect of an amendment

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and a further amendment may be moved, subject to the limitation on the number of amendments in clause 10.9.

10.16 Withdrawal of motion or amendment

- (1) Subject to subclause (2), the Council or a committee may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.
- (2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

10.17 Right of reply

- (1) The mover of a substantive motion has the right of reply.
- (2) The right of reply under subclause (1) may be exercised only—
 - (a) where no amendment is moved to the substantive motion—at the conclusion of the discussion on the motion; or
 - (b) where one or more amendments have been moved to the substantive motion—at the conclusion of the discussion on the substantive motion and any amendments.
- (3) The mover of an amendment to a substantive motion has the right of reply in relation to that amendment.
- (4) The right of reply under subclause (3) may be exercised only at the conclusion of the discussion on that amendment.
- (5) After the mover of the substantive motion has commenced the reply—
 - (a) no other member is to speak on the motion;
 - (b) there is to be no further discussion on, question about or any further amendment to, the motion.
- (6) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (7) At the conclusion of the right of reply under subclause (2), the substantive motion, or the substantive motion as amended, is immediately to be put to the vote, subject to any requirement to read the motion under clause 10.7 before the vote.

10.18 Foreshadowing alternative motions

- (1) In this clause, *Alternative Motion* means an alternative substantive motion that negates the terms and intent of a substantive motion that is being considered, or is to be considered, by the Council.
- (2) A member who wishes the Council to consider an Alternative Motion, the member must foreshadow the Alternative Motion before the right of reply in respect of the substantive motion has commenced.
- (3) If the substantive motion is lost, the presiding member must call on the member who foreshadowed the Alternative Motion to move the Alternative Motion.
- (4) Once moved and seconded, the foreshadowed Alternative Motion becomes the substantive motion and the same procedures and rules of debate apply to this motion as any other substantive motion.
- (5) If more than one foreshadowed Alternative Motion is proposed for any item before the Council, the presiding member must deal with them in the order in which they were foreshadowed.
- (6) Where a member has identified an item for exclusion from the adoption by exception resolution under clause 5.10(5), and includes a motion that is different to the employee

recommendation, that motion is taken to be a foreshadowed Alternative Motion and is to be the substantive motion that is first considered by the Council.

- (7) Where a member has identified an item for exclusion from the adoption by exception resolution under clause 5.10(5), and includes a motion that is different to the committee recommendation, that motion is taken to be a foreshadowed Alternative Motion and members are first to be given the option to debate the committee recommendation.

Part 11 - Procedural motions

11.1 Permissible procedural motions

In addition to the right to move an amendment to a substantive motion (under Part 10), a member may move the following procedural motions—

- (a) that the item be referred or adjourned to a Council or a committee meeting;
- (b) that the meeting now adjourn;
- (c) that the motion be now put;
- (d) that the ruling of the presiding member be disagreed with;
- (e) that the member be no longer heard;
- (f) that the meeting be closed to the public (see clause 6.2).

11.2 No debate

- (1) A procedural motion is not open to debate until it has been seconded.
- (2) The mover of a motion specified in paragraph (a), (b), (d) or (f) of clause 11.1 may speak to the motion for not more than 5 minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (3) The mover of a motion specified in paragraph (c) or (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

11.3 Who may move

A member who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, cannot move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

11.4 Procedural motions—right of reply on substantive motion

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

11.5 Item to be referred or adjourned

- (1) A motion “that the item be referred or adjourned”—

- (a) is, in the case of a referral, to state the Council or committee meeting to which the item is to be referred and the time of that meeting (and the reasons for the motion);
 - (b) is, in the case of an adjournment, to state the time to which the debate on the item is to be adjourned (and the reasons for the motion); and
 - (c) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but is to continue at the meeting, and at the time, stated in the motion.
- (2) If a motion “that the item be adjourned” is carried at a meeting—
- (a) the name of each member who has spoken on the item before the adjournment is to be recorded in the minutes; and
 - (b) clause 8.10 is to apply when the debate on the item is resumed.

11.6 Meeting now adjourn

- (1) A member is not to move or second more than one motion of adjournment during the same meeting.
- (2) Before putting the motion for the adjournment, the presiding member may seek leave of the meeting to deal first with matters that may be the subject of an adoption by exception resolution (see clause 5.6).
- (3) A motion “that the meeting now adjourn”—
- (a) is to state the time and date to which the meeting is to be adjourned; and
 - (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.
- (4) The Council or a committee may adjourn any meeting—
- (a) to a later time on the same day; or
 - (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.
- (5) A meeting adjourned under subclause (3) –
- (a) is to continue from the point at which it was adjourned, unless the presiding member or the meeting determines otherwise; and
 - (b) in case of a Council meeting –
 - (i) the name of each member who has spoken on any item that is adjourned is to be recorded in the minutes; and
 - (ii) clause 8.10 is to apply when the debate on that item is resumed.

11.7 Motion to be put

- (1) If the motion “that the motion be now put”, is carried during debate on a substantive motion without amendment, the presiding member is to offer the right of reply and then put the motion to the vote without further debate.
- (2) If the motion “that the motion be now put” is carried during discussion of an amendment, the presiding member is to offer the right of reply in relation to the amendment and then put the amendment to the vote without further debate.
- (3) If the motion “that the motion be now put” is lost, the debate is to continue.

11.8 Member to be no longer heard

If the motion “that the member be no longer heard” is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion or amendment.

11.9 Ruling of the presiding member to be disagreed with

If the motion “that the ruling of the presiding member be disagreed with” is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

Part 12 - Disclosure of interests

12.1 Disclosure of interests

The requirements for members and employees to disclose financial and other interests, the nature of the interests that must be disclosed, and related matters are dealt with in the Act, the Administration Regulations, the Rules of Conduct Regulations and the Code of Conduct.

12.2 Separation of committee recommendations

Where, at a committee meeting -

- (a) a member discloses a financial interest in a matter; and
- (b) the matter is included in the recommendations (or part of the recommendations) of the committee to a Council or committee meeting that will or may be attended by the member,

the agenda of that Council or committee meeting is to separate the relevant recommendation (or the relevant part of the recommendation) from other recommendations of the committee.

Note: the purpose of this clause is to enable the member to declare the interest and leave the room before the consideration of the matter in which he or she has the interest.

Part 13 - Voting

13.1 Motion—when put

- (1) Immediately after the debate on any motion is concluded and the right of reply has been exercised, the presiding member—
 - (a) is to put the motion to the meeting; and

- (b) if requested by any member, is to again state the terms of the motion.
- (2) A member is not to leave the meeting when the presiding member is putting any motion.

13.2 Voting

Voting is dealt with in the Act and the Administration Regulations.

- | | |
|-----|--|
| (1) | Each council member and each member of a committee who is present at a meeting of the council or committee is entitled to one vote. |
| (2) | Subject to section 5.67, each council member and each member of a committee to which a local government power or duty has been delegated who is present at a meeting of the council or committee is to vote. |
| (3) | If the votes of members present at a council or a committee meeting are equally divided, the person presiding is to cast a second vote. |
| (4) | If a member of a council or a committee specifically requests that there be recorded —

(a) his or her vote; or

(b) the vote of all members present,

on a matter voted on at a meeting of the council or the committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes. |
| (5) | A person who fails to comply with subsection (2) or (3) commits an offence. |
- [Section 5.21 of the Act]

Voting at a council or committee meeting is to be conducted so that no voter's vote is secret.
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[Regulation 9 of the Administration Regulations]

13.3 Majorities required for decisions

The majorities required for decisions of the Council and committees are dealt with in the Act.

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|-----|---|
| (1) | A decision of a council does not have effect unless it has been made by a simple majority or, if another kind of majority is required under any provision of this Act or has been prescribed by regulations or a local law for the particular kind of decision, by that kind of majority. |
| (2) | A decision of a committee does not have effect unless it has been made by a simple majority or, if another kind of majority has been prescribed by regulations or a local law for the particular kind of decision, by that kind of majority. |
| (3) | This section does not apply to elections — |

- | | |
|-----|---|
| (a) | by a council of the local government's mayor or president under section 2.11; |
| (b) | by a council of the local government's deputy mayor or president under section 2.15; or |
| (c) | by a committee of the committee's presiding member or deputy presiding member under section 5.12. |

[Section 5.20 of the Act]

13.4 Method of taking vote

- (1) In taking the vote on any motion the presiding member—
 - (a) is to put the motion, first in the affirmative, and then in the negative;
 - (b) may put the motion in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
 - (c) is to count and determine the votes of members in any way (such as electronically or by a show of hands) that enables a record to be taken of each member's vote; and
 - (d) subject to this clause, is to declare the result.
- (2) The CEO is to ensure that the minutes record whether or not the motion is carried unanimously, and if the motion is not carried unanimously—
 - (a) the name of each member who voted; and
 - (b) whether he or she voted in the affirmative or negative.

Part 14 - Minutes of meetings

14.1 Keeping of minutes

The keeping and confirmation of minutes are dealt with in the Act.

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|-----|--|
| (1) | The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meeting's proceedings. |
| (2) | The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation. |
| (3) | The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation. |

[Section 5.22 of the Act]

14.2 Content of minutes

The content of minutes is dealt with in the Administration Regulations.

The content of minutes of a meeting of a council or a committee is to include —

- (a) the names of the members present at the meeting;
- (b) where a member enters or leaves the meeting during the course of the meeting, the time of entry or departure, as the case requires, in the chronological sequence of the business of the meeting;
- (c) details of each motion moved at the meeting, the mover and the outcome of the motion;
- (d) details of each decision made at the meeting;
- (da) written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration);
- (e) a summary of each question raised by members of the public at the meeting and a summary of the response to the question; and
- (f) in relation to each disclosure made under section 5.65 or 5.70 in relation to the meeting, where the extent of the interest has also been disclosed, the extent of the interest".

[Regulation 11 of the Administration Regulations]

14.3 Public inspection of unconfirmed minutes

The public inspection of unconfirmed minutes is dealt with in the Administration Regulations.

A local government is to ensure that unconfirmed minutes of each council and committee meeting are available for inspection by members of the public —

- (a) in the case of a council meeting, within 10 business days after the meeting; and
- (b) in the case of a committee meeting, within 5 business days after the meeting.

[Regulation 13 of the Administration Regulations]

14.4 Confirmation of minutes

- (1) If a member is dissatisfied with the accuracy of the draft minutes, he or she is to provide to the CEO a written copy of the alternative wording to amend the draft minutes no later than 3 clear business days before the meeting where the minutes are to be confirmed.
- (2) At that meeting, during the item dealing with the confirmation of minutes, the member who provided the alternative wording—
 - (a) is to state the item or items with which he or she is dissatisfied; and
 - (b) is to propose a motion clearly outlining the alternative wording to amend the minutes.

Part 15 - Revoking or changing decisions

15.1 Requirements to revoke or change decisions

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Administration Regulations.

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|------|---|
| (1) | If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported |
| (a) | in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or |
| (b) | in any other case, by at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, |
| | inclusive of the mover. |
| (1a) | Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover. |
| (2) | If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made |
| (a) | in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or |
| (b) | in any other case, by an absolute majority. |
| (3) | This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different. |

[Regulation 10 of the Administration Regulations]

Part 16 - Suspension of standing orders

16.1 Suspension of standing orders

- (1) A member may at any time move that the operation of one or more of these standing orders be suspended.
- (2) A motion under subclause (1) which is seconded and carried is to suspend the operation of the standing order or orders to which the motion relates for the duration of the meeting or such other part of the meeting specified in the motion, unless the meeting earlier resolves otherwise.

16.2 Where standing orders do not apply

- (1) In situations where—
 - (a) one or more of these standing orders have been suspended; or

- (b) a matter is not regulated by the Act, the Administration Regulations or this local law, the presiding member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.9.

Part 17 - Meetings of electors

17.1 Electors' general meetings

Electors' general meetings are dealt with in the Act.

- | | |
|-----|---|
| (1) | A general meeting of the electors of a district is to be held once every financial year. |
| (2) | A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year. |
| (3) | The matters to be discussed at general electors' meetings are to be those prescribed. |

[Section 5.27 of the Act]

17.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in the Administration Regulations.

For the purposes of section 5.27(3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.
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[Regulation 15 of the Administration Regulations]

17.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

- | | |
|-----|---|
| (1) | A special meeting of the electors of a district is to be held on the request of not less than – <ul style="list-style-type: none">(a) 100 electors or 5% of the number of electors - whichever is the lesser number; or(b) 1/3 of the number of council members. |
| (2) | The request is to specify the matters to be discussed at the meeting and the form or content of the request is to be in accordance and regulations. |
| (3) | The request is to be sent to the mayor or president. |
| (4) | A special meeting is to be held on a day selected by the mayor or president but |

not more than 35 days after the day on which he or she received the request.

[Section 5.28 of the Act]

17.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in the Administration Regulations.

A request for a special meeting of the electors of a district is to be in the form of Form 1.

[Regulation 16 of the Administration Regulations]

17.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

- (1) The CEO is to convene an electors' meeting by giving –
 - (a) at least 14 days' local public notice; and
 - (b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.
- (2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.

[Section 5.29 of the Act]

17.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in the Act.

- (1) The mayor or president is to preside at electors' meetings.
- (2) If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at an electors' meeting in accordance with that section.
- (3) If the circumstances mentioned in section 5.34(a) or (b) apply and –
 - (a) the office of deputy mayor or deputy president is vacant; or
 - (b) the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,then the electors present are to choose one of the councillors present to preside at the meeting but if there is no councillor present, able and willing to preside, then the electors present are to choose one of themselves to preside.

[Section 5.30 of the Act]

17.7 Procedure for electors' meetings

- (1) The procedure for electors' meetings is dealt with in the Act and the Administration Regulations.

The procedure to be followed at, and in respect of, electors' meetings and the methods of voting at electors' meetings are to be in accordance with regulations.

[Section 5.31 of the Act]

Subject to regulations 15 and 17, the procedure to be followed at a general or special meeting of electors is to be determined by the person presiding at the meeting.

[Regulation 18 of the Administration Regulations]

- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to this local law.

17.8 Participation of non-electors

A person who is not an elector of the City must not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

Note: A person who is not an elector of the City cannot vote at an electors' meeting (see clause 18.9).

17.9 Voting at electors' meetings

Voting at electors' meetings is dealt with in the Administration Regulations.

- (1) Each elector who is present at a general or special meeting of electors is entitled to one vote on each matter to be decided at the meeting but does not have to vote.
- (2) All decisions at a general or special meeting of electors are to be made by a simple majority of votes.
- (3) Voting at a general or special meeting of electors is to be conducted so that no voter's vote is secret.

[Regulation 17 of the Administration Regulations]

17.10 Minutes of electors' meetings

Minutes of electors' meetings are dealt with in the Act.

The CEO is to –

- (a) cause minutes of the proceedings at an electors' meeting to be kept and preserved; and
- (b) ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors'

meeting are first considered.

[Section 5.32 of the Act]

17.11 Decisions made at electors' meetings

Decisions made at electors' meetings are dealt with in the Act.

- (1) All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable –
 - (a) at the first ordinary council meeting after that meeting; or
 - (b) at a special meeting called for that purpose, whichever happens first.
- (2) If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.

[Section 5.33 of the Act]

Part 18 - Enforcement

18.1 Penalty for breach

A person who breaches a provision of this local law commits an offence. Penalty—\$5,000.00 and a daily penalty of \$500.00.

18.2 Who can prosecute

Who can prosecute is dealt with in the Act.

A prosecution for an offence against a local law may be commenced by —

- (a) a person who is acting in the course of his or her duties as an employee of the local government or regional local government that made the local law; or
- (b) a person who is authorised to do so by the local government or regional local government that made the local law.

[Section 9.24(2) of the Act]

Dated: 14 March 2018.

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

GRANT DOUGLAS
HENLEY, Mayor.

6.4 PROPOSED REPLACEMENT OF THE CURRENT ENFORCEMENT AND PROSECUTIONS POLICY
WITH A PROPOSED COMPLIANCE POLICY

SUBJECT INDEX:	Legal
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Legal and Property Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Manager Legal and Property Services - Martyn Cavanagh
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Current Enforcement and Prosecutions Policy ↓ Attachment B Proposed Compliance Policy ↓ Attachment C Proposed amended Ranger and Emergency Services Approach to Regulatory Functions Policy ↓

PRÉCIS

This report presents a revised policy in respect of the taking of compliance action for the enforcement of laws that provide for offences.

The revised policy has been amended to clarify the purposes and approach to compliance action, including by reference to fundamental principles governing the operation of criminal law. This provides a broader context to regulatory requirements for both the community and City officers.

Certain operational aspects have been removed from the current policy. These are more appropriately provided for in operational Staff Management Practices and guidelines.

BACKGROUND

Council's current Enforcement and Prosecutions Policy (EPP) was adopted on 9 August 2017 and replaced the previous policy that had been in force since 2010. The 2010 policy was considered to be unnecessarily detailed, with much of the detail being operational in nature. A copy of the EPP is at Attachment A.

The EPP sets out a range of considerations that are relevant to the exercise of the prosecutorial function, with an emphasis on the fairness and transparency of action. While the EPP provides some high level guidance on principles to be applied in any particular case, it does not set out the overall objective or context of the purposes that the regulatory function is intended to achieve.

The EPP has been reviewed having regard to the recommendations made in the Governance Systems Review (GSR) undertaken by Mr John Woodhouse in late 2017. Those recommendations included that a Council policy should deal with higher level objectives and strategies.

A proposed Compliance Policy has been prepared to replace the EPP. A copy of the proposed Compliance Policy is at Attachment B.

STATUTORY ENVIRONMENT

The City of Busselton is a body corporate with perpetual succession, the legal capacity of a natural person and a range of statutory powers provided under both the *Local Government Act 1995* (LGA) and other State Acts.

The general function of a local government is to provide for the 'good government' of persons in the district (section 3.1 of the LGA). This includes through making and enforcing laws that prohibit certain activities and provide for offences.

Council is the governing body of a local government, and is responsible under section 2.7 of the LGA for the performance of the local government functions, including by determining the local government's policies.

The adoption by Council of the proposed Compliance Policy would be in accordance with the Council's responsibilities referred to above. The enforcement of regulatory prohibitions is a necessary part of providing for 'good government' by maintaining standards of behaviour in the community.

RELEVANT PLANS AND POLICIES

Council has adopted the Ranger and Emergency Services Approach to Regulatory Functions Policy (11 October 2017). This policy has an express purpose being to supplement the EPP.

The CEO has issued operational practice guidelines "Ranger and Emergency Services – Approach to Enforcement, Reviews and Appeals, Operational Practice and Procedure".

Both the Ranger and Emergency Services policy and guidelines referred to above are primarily directed at parking, traffic, dog/cat, fire management, litter and camping and related local government property management. They would remain consistent with the proposed Compliance Policy.

FINANCIAL IMPLICATIONS

There are no negative financial implications arising from the revision of the policy.

Long-term Financial Plan Implications

Adoption of the proposed Compliance Policy will not give rise to any long term financial plan implications.

STRATEGIC COMMUNITY OBJECTIVES

The Officer's recommendation aligns with and supports the Council's Strategic Community Plan 2017 as follows:

Key Goal Area 6: Leadership and Community Objective - 6.1 – Governance systems, process and practices are responsible, ethical and transparent.

RISK ASSESSMENT

The proposed Compliance Policy does not materially change the City's position in relation to compliance action and introduces no additional risk or risks that are considered of a medium or greater level.

CONSULTATION

No consultation was undertaken or considered necessary in relation to review of the EPP.

OFFICER COMMENT

The proposed Compliance Policy does not seek to materially change the City's position in relation to how compliance action is to be carried out. The proposed policy does seek to achieve two clarifications, in furtherance of the GSR recommendations referred to under 'Background' above.

The first clarification is to include a clear statement of the purposes that compliance action is to be directed at. These purposes derive from the essence of governing a community, which is to combine an appropriate level of order with freedom. This objective naturally gives rise to both a civic duty on citizens to voluntarily support and uphold the laws that are in force, and a regulatory duty on the local government as the body having the power to take action to enforce laws by bringing non-conforming citizens to account. Voluntary compliance by citizens will be supported where there is a high level of public confidence in the City's performance of its regulatory functions. The City can foster this public confidence by both promoting a high level of voluntary compliance, principally through education and leadership, and by effectively enforcing laws to protect the community and deter others from offending in appropriate cases.

The second clarification is to provide a more systematic approach to the consideration of public interest factors. 'Public interest' in this sense is about the weighing up of a range of competing potential considerations in each case and on merits. There is no formulaic approach to this. Rather, it is properly exercised from a position of informed understanding of the purpose of the regulatory requirement in each case, the function of the local government generally and the fundamental principles of criminal law relating to the 'presumption of innocence' and the burden of proof of 'beyond reasonable doubt'.

An appropriate guide for how to apply the principles is set out in the Director of Public Prosecutions publication 'Statement of Prosecution Policy and Guidelines 2005'. The Statement identifies a range of considerations that may be relevant to consider in any case. It also identifies matters that are not relevant, such as race, religious beliefs of the alleged offender and the possible political consequences of the exercise of the discretion.

The proposed Compliance Policy includes an express requirement on City officers to have regard to this Statement in exercising the City's regulatory functions.

The proposed Compliance Policy continues to provide for the consideration of alternative enforcement options, such as issuing infringement notices. It also continues to provide for Council to be informed of prosecution action being commenced, and extends this to informing Council in any exceptional case where prosecution action is withdrawn.

In relation to providing information to Council, it is intended that confidential emails would be used to notify Councillors when a decision has been made to initiate prosecution action as well as when prosecution action is actually commenced, briefly setting out the nature of the matter and the party to be prosecuted. Councillors would also be advised to direct any enquiries they receive to the Legal Services staff at the City for attention.

As the Ranger and Emergency Services Approach to Regulatory Functions Policy refers to the EPP, if Council adopts the proposed Compliance Policy then Council should also adopt an amendment to the Ranger and Emergency Services Approach to Regulatory Functions Policy by deleting the reference to "Prosecutions Policy" and substituting "Compliance Policy". An amended version of the Ranger and Emergency Services Policy is at Attachment C, noting at this stage the policy has not been otherwise reviewed to meet the recommendations of the GSR (including not having been transferred to the new Council Policy format). It is intended that a further review to this end will be undertaken in the coming months.

With respect to the implementation and application of the proposed policy, resourcing considerations need to be understood. Depending upon factors such as the nature of the evidence and the attitude of an alleged offender, compliance action can consume valuable City resources. The level of resources that is available will constrain the level to which prosecution action will be taken. The types of matters where prosecution action can be required include –

- (a) High risk matters, which may involve planning, building and health issues of significance;
- (b) Risk management matters, such as environmental and animal danger issues;
- (c) Standard business such as parking, caravans and camping issues; and
- (d) Reactive or incidental matters which are identified opportunistically rather than as a result of programmed approach.

The CEO will allocate resources as considered appropriate from and time to time, having regard to the nature and number of matters requiring investigation and action.

CONCLUSION

It is recommended that Council adopt the proposed Compliance Policy at Attachment B to replace the existing EPP and adopt the minor amendment to the Ranger and Emergency Services Approach to Regulatory Functions Policy so as to maintain proper referencing between the policies.

OPTIONS

The Council may not agree with the proposed Compliance Policy and may seek that the EPP remain in operation in its current format or for alternative changes to be made to it.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The EPP will be withdrawn, and the proposed Compliance Policy will be effective, as of the making of the decisions to withdraw and adopt or amend by Council.

OFFICER RECOMMENDATION

That the Council:

1. withdraws the “015 Enforcement and Prosecutions” Policy as per Attachment A;
2. adopts the Compliance Policy as indicated within Attachment B; and
3. adopts an amendment to the Council’s Policy ‘016 Ranger and Emergency Services Approach to Regulatory Functions’, by deleting the reference to “*Prosecutions Policy*” and substituting “Compliance Policy” as indicated in Attachment C.

Last updated 09/08/2017

015	Enforcement and Prosecutions	V2
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1. PURPOSE

The purpose of this Policy is to provide high level guidance to the City's compliance and enforcement action to ensure it is consistent and procedurally fair and to facilitate transparency by explaining the process that leads to a prosecution. More detailed guidance for Officers may also be found in operational practice and procedures and in separate policies relating to specific operational areas.

2. SCOPE

Local government is empowered to administer a broad suite of legislation, which includes the responsibility for enforcing the legislation (**Laws**). This role also extends to enforcing relevant subsidiary legislation, including regulations and the local government's local planning scheme and local laws.

3. POLICY CONTENT

3.1 Reporting Transgressions under City Laws

Non-compliance with or an offence under the Laws (**Transgression**) is generally brought to the City's attention by either a complaint from a member of the community, some other external party (e.g a government agency) or through City officers' investigations. When investigating an alleged or presumed Transgression it must first be established whether the City is the responsible authority for enforcing the relevant Law. If not, the alleged or presumed Transgression should be referred to the responsible authority.

3.2 Characterising Transgressions

Where the City is the responsible authority for enforcing a Transgression it shall be assessed by the City against the following considerations to determine the character of the Transgression:

- (a) public interest
- (b) threat to or impact on:
 - (i) public health and safety
 - (ii) environment
 - (iii) amenity
 - (iv) public or private property
- (c) rule of law
- (d) deterrence
- (e) need for punishment
- (f) other relevant legislative objectives

If a Transgression is characterised such that it warrants the City's further response/attention, further factors may be considered, including but not limited to:

- (g) whether the Transgression was committed deliberately or accidentally;
- (h) the seriousness and the type of the Transgression;
- (i) any prior convictions or demonstrated history of non-compliance relevant to the Transgression;
- (j) length of time since the Transgression;
- (k) the statutory timeframes relating to the relevant legislation;
- (l) any ongoing impacts resulting from the Transgression; and
- (m) any mitigating or aggravating circumstances.

Last updated 09/08/2017

3.3 Enforcement/compliance action

Prosecution is an enforcement tool that will be employed where it is the appropriate response to a particular circumstance and is not an enforcement option to be applied only as a last resort.

Decisions on enforcement action will be taken in a timely fashion, notwithstanding that flexibility will be retained to be able to respond to additional information or changes in circumstance.

Where a Transgression warrants a response from the City, the City may, at its discretion, take any one or more of the following actions:

- (a) warning/caution letter reprimanding the offender in respect of the alleged Transgression;
- (b) infringement notice;
- (c) prosecution;
- (d) referring the matter to another authority with similar or higher jurisdiction; or
- (e) a negotiated other outcome

Where there is an escalation in response to a Transgression beyond an infringement notice the CEO will inform Councillors.

3.4 Recovery of legal costs

The City will seek to recover its fair and reasonable costs in all matters where costs are recoverable, either by consent or by order of the relevant court or tribunal.

3.5 Publication of convictions

To achieve the deterring objective of a prosecution (that is “justice must be seen to be done”), should a conviction result from a prosecuted Transgression then the City may publish a summary of the relevant details of the Transgression and conviction in such manner deemed fit by the City under the circumstances, which may include publishing details of such outcome on the City’s website or any other appropriate platform.

4. APPLICATION OF THE POLICY

This policy is provided for information purposes only to provide general guidance on how enforcement and prosecution of Transgressions is approached by the City. This policy:

- is not legally binding on the City, on any other organisations such as government departments, the police or individuals in the community;
- is general in nature and does not exhaustively address all the specific statutory actions, limitations and considerations that may be relevant or available under the Laws administered by the City;
- does not confine, restrain or limit the discretion of the City to take any action; and
- is not intended to constitute legal advice or to substitute or vary any legal processes.

Any person or entity affected by this policy or by any prosecution or compliance action undertaken by the City of Busselton should obtain independent legal advice in relation thereto.

Policy Background

Policy Reference No. - 015
Owner Unit – Legal Services

Last updated 09/08/2017

Originator – Legal Officer
Policy approved by – Council
Date Approved – 9 August 2017
Review frequency - As required
Related Documents - Acts, Regulations and Local Laws administered by the City

History

Council Resolution	Date	Information
C1708/187	9 August, 2017	
C1005/149	12 May, 2010	Date of implementation Version



1. PURPOSE

- 1.1. The City applies a range of regulatory powers in providing for the good governance of the people in the District of Busselton. This includes enforcing laws that provide for offences.
- 1.2. The City's Compliance Policy is directed at –
 - a. supporting widespread understanding of minimum standards of conduct, and conduct that may render a person liable to prosecution;
 - b. applying legislation in accordance with the principles of timeliness, fairness, consistency and proportionality;
 - c. promoting a high level of voluntary compliance with the requirements of legislation, , in particular by property owners;
 - d. supporting the Separation of Powers doctrine, under which the City's role is to take action to enforce laws and the court's role is to determine questions of fact and culpability;
 - e. taking enforcement action against persons who commit offences; and
 - f. deterring persons from committing offences and protecting the community.

2. SCOPE

- 2.1. This policy is applicable to all offence (criminal law) provisions of legislation that the City has jurisdiction to enforce.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council policy entitled "Compliance Policy"

4. STRATEGIC CONTEXT

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

5. POLICY STATEMENT

- 5.1. The City respects the fundamental value under our legal and political system of the inherent right of each citizen to freedom of action.

- 5.2. The City's role is to provide for good governance. This necessitates establishing and enforcing laws (rules) that necessarily impact on the freedom of the individual, where this is considered to be for the greater good of the community.
- 5.3. The City has the responsibility for taking action to ensure that regulatory (offence) laws are complied with. In carrying out this function, the City expressly acknowledges and respects the presumption of innocence in law, under which all citizens are presumed innocent until proven guilty in a competent court.
- 5.4. Where the City has information that indicates a potential contravention by a person of a regulatory law, the following principles are to apply:
- a. Information about alleged unlawful behaviour may come to the attention of City officers in a number of ways. In the first instance, City officers are to consider whether the information has sufficient substance to warrant further investigation and consideration and undertake any additional preliminary enquiries as may be considered appropriate;
 - b. Where there is sufficient information to form a preliminary view that a person has engaged in unlawful behaviour, City officers are to consider whether reasonable endeavours to communicate with the person, for the purpose of educating and achieving voluntary compliance, will be sufficient and appropriate to resolve the matter. This may include issuing a statutory notice requiring action to be taken by the person.
 - c. Where City officers form the view that education and negotiation to achieve voluntary compliance is not, or is unlikely to be, either sufficient or appropriate to properly resolve the matter, then consideration is to be given to whether to issue a letter of warning, issue an infringement notice, undertake prosecution action or refer the matter to another jurisdiction.
 - d. The consideration of the alternative courses of action under sub-clause d is entirely independent of any action taken to carry out remedial work where a statutory notice has been issued but not complied with, including the recovery by the City of costs of carrying out that work.
 - e. In each case, City officers are to consider the relative merits of the alternative courses of action.
 - f. In each case, City officers are to provide information where reasonably possible to promote the objectives of education and future voluntary compliance.
 - g. Where the legislation provides for an offence relating to property, City officers are to ensure that the potential liability of any property owner is given consideration. Property includes land, vehicles and animals. Property owners have a primary and continuing responsibility for ensuring that their property is lawfully held, used and maintained.
 - h. The City's compliance actions are to be applied, having regard to the circumstances of each case and the resources available to the City, in accordance with the principles of timeliness, fairness, consistency and proportionality. The City's compliance actions are to be directed at promoting public confidence in the City's administration.
 - i. Prosecution action is not a 'last resort'. It is to be undertaken whenever the circumstances warrant that action being taken.
 - j. Prior to commencing a prosecution, the City is to determine that the prosecution is in the 'public interest'. This requires the proper consideration of whether there are reasonable prospects of conviction, whether there are any relevant factors that support or do not support the taking of prosecution action, the relative merits of those factors, and not

taking into account any irrelevant factors. Regard is to be given to the factors identified in the Director of Public Prosecutions' **'Statement of Prosecution Policy and Guidelines 2005'**.

- k. Given the basis on which a prosecution is to be commenced, once a decision to prosecute has been made and a prosecution action has commenced, the prosecution action should only be discontinued where there is a sound persuasive basis for doing so.
- l. Where the City prosecutes a person and the court convicts that person, the City is to give consideration to whether there is benefit in publishing notice of that conviction. Public notice of a conviction may serve to promote the general deterrent effect of prosecution action. Public notice of a conviction may also maintain community confidence that laws made for regulatory purposes will be actively and effectively applied.
- m. Where the City has determined that it is in the public interest to take prosecution action in any matter, the CEO is to inform the Council of that decision at the next reasonable opportunity. The CEO is also to inform Council upon prosecution action being commenced in court and if, in any case, the prosecution action is withdrawn.
- n. Information in respect of prosecution decisions and actions is to be provided to Council on a confidential basis.
- o. The CEO may make appropriate Staff Management Procedures relating to the processes to be followed, types of considerations to be taken into account and standards to be applied in order to deliver to outcomes in accordance with the principles in this Policy.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. Local Government Act 1995
- 6.2. Planning and Development Act 2005
- 6.3. Building Act 2011
- 6.4. Public Health Act 2016
- 6.5. Dog Act 1976 and Cat Act 2011
- 6.6. Bush Fires Act 1954
- 6.7. Criminal Procedure Act 2003
- 6.8. Council Policy 016 – Ranger & Emergency Services Approach to Regulatory Functions
- 6.9. Director Of Public Prosecutions - Statement of Prosecution Policy and Guidelines 2005

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE		Resolution #	

016	Ranger & Emergency Services Approach to Regulatory Functions	V2 Current
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1.0 PURPOSE

The purpose of this policy is to –

- 1.1 Outline the City's approach to the implementation of the regulatory framework controlling parking, dog/cats/animals, fire management, litter, unauthorised camping and related matters (all of which are primarily handled by the City's Ranger and Emergency Services).
- 1.2 Supplement relevant requirements, direction and advice already set out in the City's ~~Prosecutions Policy~~ Compliance Policy and relevant Acts, Regulations, Local Laws and/or other relevant documents.
- 1.3 Support transparent, consistent, accountable and respectful guidance and processes associated with implementing the relevant regulatory framework, including decisions to issue work orders and infringements, pursue prosecution and respond to requests for withdrawal/cessation of work orders, infringements and prosecutions.

2.0 GENERAL PRINCIPLES

- 2.1 The CEO will prepare more detailed internal procedures/protocols to supplement this Policy and to guide operational staff in the exercise of these functions. The CEO will consult with Councillors as appropriate in the development of those procedures/protocols.
- 2.2 The City will enforce the regulatory framework relating to parking, dogs/cats/animals, fire management, litter, unauthorised camping and related matters in a consistent, fair and objective manner, whilst at the same time, promoting positive resident and customer relations, and providing a conscientious and respectful service.
- 2.3 Officers are expected to use their reasonable judgement and discretions whilst enforcing the regulatory framework relating to parking, dogs/cats/animals, fire management, litter, unauthorised camping and related matters.
- 2.4 Once there has been a decision to prosecute, or an infringement notice or work order has been issued, it will only be withdrawn following the submission and consideration of a written request for withdrawal as set out in more detailed protocols/procedures developed by the CEO.
- 2.5 'Mutual respect' is one of the City's values. That value is of particular importance to the exercising of regulatory functions and applies to both the City itself and the community. Respect is due to both a person who may have been issued an infringement or similar, as well as to the people who have complied with the relevant legislation, or may have been affected by the failure of someone else to do so. Behaviour disrespectful to the City, its employees or the community as a whole is inappropriate and will not be tolerated.

3.0 PARKING – OBJECTIVES/STATEMENT OF INTENT

The following sets out the key objectives/statement of intent in relation to the City's enforcement of parking controls –

- 3.1 The aim of parking controls and their enforcement is to ensure the efficient and equitable use and management of parking in the City, especially in the Busselton City Centre and Dunsborough Town Centre.
- 3.2 The City will aim to provide consistent enforcement of parking controls, but available staffing resources and workload demands may affect the City's capacity to enforce parking controls from time-to-time. Notwithstanding this, residents and visitors are responsible for ensuring they are complying with parking controls at all times.
- 3.3 The City will review parking controls periodically and adjust parking controls as appropriate and following completion of appropriate consultation and applicable legal/administrative processes. The City will be conscious of available resources and the need to provide for consistent enforcement in determining when, where and what parking controls should be applied.
- 3.4 The City's parking local law provides for control of both public car parking (on-street and public car parks) and, where requested by the landowners, private car parking (e.g. some shopping centre car parks). The City encourages landowners to request that the City manage private car parking areas in and around the Busselton City Centre and Dunsborough Town Centre, and will generally support requests to manage private parking areas where the controls are to be applied are consistent with the approach to managing public parking and the City's capacity to consistently enforce those controls. If the landowner wishes to have parking controls that are not considered to be appropriate or enforceable by the City, then the City will not agree to manage the relevant parking area. The City also does not have the capacity to manage private car parking outside the Busselton City Centre and the Dunsborough Town Centre.
- 3.5 The City will engage in community education and provision of information as appropriate and as resources allow, assisting residents and visitors to determine what and where parking is available to meet their needs.

4.0 ANIMALS – OBJECTIVES/STATEMENT OF INTENT

The following sets out the key objectives/statement of intent in relation to the City's enforcement of dog, cat and other animal controls –

- 4.1 The City promotes responsible pet ownership and recognises that pets can substantially add to the wellbeing and quality of life of their owners.
- 4.2 The aim of dog, cat and other animal controls is to promote responsible pet ownership, avoid nuisance being created for members of the community and visitors, limit damage to and loss of wildlife, and protect the welfare and safety of dogs, cats and other animals.
- 4.3 The City will aim to provide consistent enforcement of dog, cat and other animal controls, but available staffing resources and workload demands may affect the City's capacity to enforce these controls from time-to-time. Notwithstanding that, residents and visitors are responsible for ensuring they are complying with relevant regulations at all times.

- 4.4 The City will review dog, cat and other animal controls periodically and adjust these controls as appropriate and following completion of appropriate consultation and applicable legal/administrative processes. The City will be conscious of available resources and the need to provide for consistent enforcement in determining when, where and what controls should be applied.
- 4.5 The City will respond to reasonable requests for assistance with protecting the welfare of dogs, cats and other animals by the public and other agencies and investigate as necessary. When the matter is found to be of a serious nature it will be handed over to the RSPCA or Parks and Wildlife Services (Department of Biodiversity, Conservation and Attractions) for their further action.
- 4.6 The City will engage in community education as appropriate and as resources allow, promoting responsible pet ownership, whilst ensuring that the primary responsibility always rests with pet and other animal owners.

5.0 FIRE MANAGEMENT – OBJECTIVES/STATEMENT OF INTENT

The following sets out the key objectives/statement of intent in relation to the City's enforcement of fire management controls –

- 5.1 The City recognises that bush fire safety is a shared and collective responsibility involving the whole of the community. Bush fires do not respect property boundaries and an elevated bush fire risk on one property does not just affect the property in question, it increases risk for the whole of the community.
- 5.2 The City promotes individual, landowner and community management for the management of bush fire risk and, in particular, strongly encourages all residents in bush fire prone areas to have their own bush fire response plan, join their local Bushfire Ready Action Group (BRAG) and/or become an emergency services volunteer with a Fire & Rescue Service or Bush Fire Brigade.
- 5.3 The City supports and works with the Department of Fire and Emergency Services, Department of Biodiversity, Conservation and Attractions, Fire and Rescue Service and Bush Fire Brigades as well as many others, to ensure that our community is adequately resourced and prepared to fight fires, but recognises that a major component of protecting our community is through mitigation of bush fire risk, especially through the creation and maintenance of fire breaks and low fuel areas on both public and private land.
- 5.4 The aim of fire management controls and their enforcement is to reduce the risks of and from bush fires to both life and property, including the lives of emergency services volunteers and others involved in fire fighting.
- 5.5 The City will aim to provide consistent enforcement of fire management controls, but available staffing resources and workload demands may affect the City's capacity to enforce fire management controls from time-to-time. Notwithstanding this, residents and visitors are responsible for ensuring they are complying with fire management controls at all times.
- 5.6 During the 'bush fire season' (generally 1 December to 12 May), enforcement of fire management controls will be the highest priority for the City's Ranger and Emergency Services, other than responding to emergencies that may occur from time-to-time. The priority areas for enforcement of fire management controls are areas identified as being bush fire prone.

5.7 The City will review fire management controls periodically and adjust controls as appropriate and following completion of appropriate consultation and applicable legal/administrative processes. The City will be conscious of available resources and the need to provide for consistent enforcement in determining when, where and what controls should be applied. The City will consider cost implications for landowners and potential environmental impacts as and when it is deemed necessary to review fire management controls, but will always place the greatest weight on the protection of human life.

5.8 The City will engage in community education as appropriate and as resources allow, promoting individual, and landowner and community responsibility for protecting our community from bush fire risk.

6.0 LITTER – OBJECTIVES/STATEMENT OF INTENT

The following sets out the key/objectives/statement of intent in relation to the City's enforcement of litter controls –

6.1 The aim of the enforcement of litter controls is to control the unlawful disposal of litter and to maintain an attractive and healthy environment and protect the safety of the community.

6.2 The City will aim to provide consistent enforcement of litter controls, but available staffing resources and workloads may affect the City's capacity to enforce controls from time-to-time. Notwithstanding this, residents and visitors are responsible for ensuring they comply with litter controls at all times.

6.3 The City will review litter controls periodically as appropriate and with appropriate consultation. The City will be conscious of available resources and the need to provide for consistent enforcement in determining when, where and what controls should be applied.

7.0 UNAUTHORISED CAMPING (OTHER THAN AT A LICENCED CARAVAN PARK AND/OR CAMPING GROUND) – OBJECTIVES/STATEMENT OF INTENT

The following sets out the key objectives/statement of intent in relation to the City's enforcement of unauthorised camping (other than at a licenced caravan park and/or camping ground) –

7.1 The aim of the enforcement of unauthorised camping controls is to ensure that people sleeping/camping in moveable dwellings, tents or their vehicles within the City comply with the relevant legislation, and to protect the health, the environment and community amenity.

7.2 The City will aim to provide consistent enforcement of unauthorised camping controls, but available staffing resources and workloads may affect the City's capacity to enforce controls from time-to-time. Notwithstanding this, residents and visitors are responsible for ensuring they comply with unauthorised camping controls at all times.

7.3 The City aims to promote responsible and sustainable caravanning and camping, reduce the impact on the natural environment and any nuisance to the community caused by irresponsible caravanning and camping.

7.4 The City will review relevant controls in relation to caravanning and camping periodically as appropriate and with appropriate consultation. The City will be conscious of available resources and the need to provide for consistent enforcement in determining when appropriate controls should be applied.

History

Council Resolution	Date	Information
C1710/243	11 October 2017	Scheduled review Version 2
C1306/160	26 June 2013	Date of Implementation Version 1

6.5 REVIEW OF COUNCIL POLICY - CITY PROMOTION - FEDERAL GOVERNMENT PARTNERSHIPS

SUBJECT INDEX:	Policies
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Administration Officer - Governance - Kate Dudley
AUTHORISING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Proposed Policy - City Promotion - Government Partnerships ↓ Attachment B Current Policy - City Promotion – Federal Government Partnerships ↓

PRÉCIS

This report presents a revised 'City Promotion – Federal Government Partnerships' policy retitled City Promotion – Government Partnerships (Attachment A) (the Policy) for Council approval. The current policy has been amended as part of the City's overall review of its Council policies having regard to the recommendations of the Governance System Review carried out by Mr John Woodhouse in 2017.

The Policy, which has been moved into the new policy template and slightly broadened in terms of its intent, is considered to be of continuing relevance and importance and is therefore recommended for Council approval.

BACKGROUND

The Policy was originally adopted in December 2010 with the aim of identifying and supporting the strategic importance of building partnerships with State and Federal Governments, in order to maximise Government funding opportunities and deliver benefit to the City. While referencing both State and Federal Government, the policy was developed specifically with a focus on building Federal Government relationships and authorises for a delegation from the City of Busselton to visit Canberra annually or as the need arises.

The policy has been reviewed once, in April 2015, where minor changes were made to update "Shire" to "City" and "Shire President" to "Mayor".

STATUTORY ENVIRONMENT

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

RELEVANT PLANS AND POLICIES

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

1. *There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. *Should deal with higher level objectives and strategies;*
 - b. *Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*

- c. Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*
- 2. As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO.*
- 3. Consideration should be given to developing a new Council Policy which sets out the 'framework' for Council Policies, OPPs and other procedures. The new Policy would explain the role to be played by each level of document. It could, for example, be called a Policy Framework Policy.*

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

FINANCIAL IMPLICATIONS

Adoption of the Policy has no additional financial implications.

Long-term Financial Plan Implications

Adoption of the Policy has no additional long term financial plan implications.

STRATEGIC COMMUNITY OBJECTIVES

The Policy links to Key Goal Area 6 – Leadership, of the City's Strategic Community Plan 2017 and specifically the following Community Objective/s:

- a. 6.1: Governance systems, processes and practices are responsible, ethical and transparent.

RISK ASSESSMENT

There are no risks identified of a medium or greater level associated with the Officers recommendation.

CONSULTATION

No specific consultation was undertaken in relation to the review of the Policy.

OFFICER COMMENT

The Policy continues to support the strategic importance of Council establishing partnerships with both Federal and State Governments for the purposes of maximising government funding opportunities which deliver benefit to the City of Busselton.

The Policy outlines a range of mechanisms for raising the profile of the City of Busselton's projects and development opportunities at both State and Federal Government levels, and hence the policy has been retitled to refer to Government partnerships collectively.

The Policy continues to authorise an annual visit to Canberra, or to other appropriate intra or interstate locations, by a City of Busselton delegation for this purpose, or for such a visit to be undertaken at short notice if an opportunity presents.

The additional reference to another 'appropriate intra or interstate location' is to cater for a possible opportunity presenting itself outside of Canberra, for instance at an event held in another location and attended by a relevant Federal Member.

The sending of a delegation to Canberra (or other location) is considered to present a very valuable opportunity and hence remains a key focus of the Policy. While the process of applying for grant funding is usually undertaken by written submission, the value of promoting projects and development opportunities directly with Government decision-makers cannot be underestimated. Promoting and presenting project portfolio's in person may serve to keep the projects being undertaken by the City at the forefront when significant grant funding opportunities are made available.

Finally paragraph 5.6 of the Policy has been amended to reflect that the delegation will be funded utilising funds established specifically for the purpose as opposed to the Councillors Conference and Training fund.

CONCLUSION

The Policy updates the current City Promotion – Federal Government Partnerships policy and in doing so recognises the importance of and maintains support for raising the profile of the City of Busselton at both Federal and State levels.

OPTIONS

Council could decide not to adopt the Policy and instead choose to take a different position / approach in relation to promotion of the City with other levels of government. Council could also require further amendments to be to the Policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be effective as of its adoption by Council.

OFFICER RECOMMENDATION

That the Council adopts the proposed City Promotion – Federal Government Partnerships policy as per Attachment A, to replace the current policy (Attachment B).

COUNCIL POLICY


City of Busselton
Geographic Bay

Council Policy Name: City Promotion – Government Partnerships

Responsible Directorate: Finance and Corporate Services

Version: Proposed

1. PURPOSE

- 1.1. The purpose of this Policy is to identify the strategic importance of Council establishing partnerships with Federal and State Governments for the purposes of maximising government funding opportunities which deliver benefit to the City of Busselton.
- 1.2. This Policy specifically authorises visits to Canberra or other appropriate intra or interstate locations by a City of Busselton delegation for the purposes of relationship building and promotion of the City of Busselton to the Federal Government.

2. SCOPE

- 2.1. This policy is applicable to activities undertaken for the purposes of establishing partnerships and relationships at State and Federal Government levels.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council policy entitled "City Promotion – Government Partnerships"

4. STRATEGIC CONTEXT

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

5. POLICY STATEMENT

- 5.1. Communication and promotion of projects and development opportunities in the City of Busselton at both State and Federal Government levels is a key component to assist in attracting required funding.
- 5.2. The City of Busselton will utilise a range of mechanisms to promote projects and development opportunities for the purposes of potential government investment. This will include regular communication with State and Federal Government Ministers, the provision of project portfolio information, and the facilitation of visits to and from Ministers.
- 5.3. It is acknowledged that Federal Members and Departments are generally not as readily accessible as State Government equivalents by reason of distance and broad areas of responsibility. This Policy therefore specifically authorises visits to Canberra or other appropriate intra or interstate locations (annually or as the need arises) by a City of Busselton delegation for the purposes of relationship building and promotion of the City of Busselton to the Federal Government.

- 5.4. The delegation shall, whenever possible, include the Mayor and Chief Executive Officer, and may include another Councillor and City Officer as required.
- 5.5. In arranging the delegation the CEO should have due regard to the following matters:
- the promotional activities of other Local Governments occurring at the time, such that the City's message is not lost or diluted;
 - the opportunity to combine the delegation with other development or conference opportunities available at the time;
 - the potential for the delegation to be jointly conducted with neighbouring Local Government/s for projects and development opportunities of regional significance; and
 - the potential for the visit to be coordinated in conjunction with and supported by the local Federal Member to assist with introductions and relevant contacts.
- 5.6. The delegation shall be conducted utilising funds established within the budget for formal civic and ceremonial purposes.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. Nil

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	8 April 2015	Resolution #	C1504/081

Last updated 08/04/2015

022	City Promotion - Federal Government Partnerships	V2 Current
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1. PURPOSE

The City of Busselton seeks to establish partnerships with both the Federal and State Governments and to maximise Government funding opportunities to deliver benefit to the City. Communication is a key component to assist in attracting funding by ensuring that projects and development opportunities in the City of Busselton are promoted and there is a high level of awareness at all levels of Government of the Local Government's initiatives in this regard.

2. SCOPE

This Policy applies specifically to the establishment of partnerships and relationships at Federal level in that it is acknowledged that Federal Members and Departments are generally not as readily accessible as the State Government equivalents by reason of distance and broad areas of responsibility.

3. POLICY CONTENT

The City of Busselton will utilise a range of mechanisms to promote projects and development opportunities for Government investment potential in the City. This will include a range of regular communication techniques and professional project portfolio information.

This policy is established to provide the specific authority for a delegation from the City of Busselton to visit Canberra annually or as the need arises for the purpose of awareness raising, relationship building and promotion of the City of Busselton to the Federal Government. The City delegation shall, whenever possible, include the Mayor and Chief Executive Officer, and may include another Councillor and City Officer as required.

In order to maximise the opportunities to promote the City of Busselton to Federal Members and Departments, in arranging the delegation the CEO should have due regard to the following matters:

- The promotional activities of other Local Governments occurring at the time, such that the City's message is not lost or diluted;
- The opportunity to combine the Canberra delegation with other development or conference opportunities available at that time;
- The potential for the delegation to be jointly conducted with neighbouring Local Government/s for projects and development opportunities of regional significance;
- The potential for the visit to be coordinated in conjunction with and supported by the local Federal Member to assist with introductions and relevant contacts.

The delegation shall be conducted utilising established Conference and Training funds and shall be given a high priority for access to the funds provided by the Council for this purpose.

Policy Background

Policy Reference No. - 022
Owner Unit – Chief Executive Office
Originator – Chief Executive Officer
Policy approved by – Council
Date Approved – 8 December 2010
Review Frequency – As required

Last updated 08/04/2015

History

Council Resolution	Date	Information
C1504/081	8 April, 2015	Version 2
C1012/412	8 December, 2010	Date of implementation Version 1

6.6 REVIEW OF COUNCIL POLICY - RAILS TO TRAILS

SUBJECT INDEX:	Policies
STRATEGIC OBJECTIVE:	Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Proposed Policy - Rails to Trails ↓ Attachment B Current Policy - Rails to Trails ↓

PRÉCIS

This report presents a revised 'Rails to Trails' policy (Attachment A) (the Policy) for Council approval, with the current policy having been amended as part of the City's overall review of its Council policies, having regard to the recommendations of the Governance System Review carried out by Mr John Woodhouse in 2017.

The Policy, which has been moved into the new policy template and refined, is considered to be of continuing relevance and importance and is therefore recommended for Council approval.

BACKGROUND

'Rails to Trail's refers to land that formerly formed part of the government railway network in the district being part of the lines:

- Boyanup to Busselton
- Busselton to Flinders Bay
- Wonnerup to Nannup

A policy in relation to the preservation, management and development of Rails to Trails was originally adopted in August 2009, with the aim of establishing the Council's commitment to the Rails to Trails as a strategic transport corridor, for recreation and for its heritage and environmental values. Since then the Rails to Trails policy has been reviewed twice, most recently in April 2016, with only very minor changes made such as updating Shire to City.

Support for the ongoing retention, promotion and development of the Rails to Trails continues to be demonstrated in the City's long term financial planning, with the Long Term Financial Plan containing municipal funds of \$51,500 per annum compounding by CPI on an annual basis. Most recently the trail has been constructed up to Cockrill Place (Vasse) from the Busselton Foreshore. In addition there has been significant progress towards the planning of the Marybrook Rail head. Retention of a 'Rails to Trails' policy is therefore recommended.

STATUTORY ENVIRONMENT

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

RELEVANT PLANS AND POLICIES

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

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

In response a Policy Framework has been developed and endorsed by Council, setting out the intent of Council policies, as opposed to operational documents such as Staff Management Practices and operational procedures, and a Council policy template developed. The proposed revised policy adheres to this framework and template.

FINANCIAL IMPLICATIONS

Adoption of the Policy has no additional financial implications. There is approximately \$248,000 on budget in the 2018/19 financial year (including Grant Funds from Lottery West). These funds are to continue the progress of the trail towards the Marybrook Rail Head.

Long-term Financial Plan Implications

Adoption of the Policy has no additional long term financial plan implications.

STRATEGIC COMMUNITY OBJECTIVES

The Policy links to Key Goal Area 3 – Environment, Key Goal Area 4 – Economy, and Key Goal Area 5 – Transport, of the City's Strategic Community Plan 2017 and specifically the following Community Objective/s:

- a. 3.2: Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations;
- b. 4.3: Events and unique tourism experiences that attract visitors and investment; and
- c. 5.3: Cycleways that connect our communities and provide alternative transport choices.

RISK ASSESSMENT

There are no risks identified of a medium or greater level associated with the Officers recommendation with the Policy simply reiterating and maintaining Council's current support for the preservation, management and, where possible, ongoing development of the Rails to Trails.

CONSULTATION

No specific consultation was undertaken in relation to the review of the Policy however the City regularly liaises with the Shire of Augusta-Margaret River in relation to the project.

OFFICER COMMENT

The purpose of the Policy is to recognise the significance of the Rails to Trails and to outline Council's commitment to the retention and management of the land as a strategic transport corridor, for recreation and for its heritage and environmental values.

The Policy sets out Council's position in relation to management and development of the land, including that the land be retained as Crown land and managed (by the City where capable) for the primary purpose of 'recreation trail', be promoted, developed and managed as a walk-cycle recreation trail suitable for hiking and for riding of bicycles designed for trails, and be designed to retain its heritage characteristics and character while also being made suitable for expected traffic and usage.

The Policy also recognises the need to integrate with other recreational heritage trails within the district and the broader region and to work cooperatively with neighbouring local governments, landowners and government agencies. The Policy does not however commit the Council to any specific development plans for the Rails to Trails, and hence such planning will continue to be considered through and within financial and operational planning parameters.

CONCLUSION

The Policy updates the current Rails to Trails policy and in doing so maintains the City's support for its preservation and management as a recreational trail.

OPTIONS

Council could decide not to adopt the Policy and instead choose to take a different position / approach in relation to Rails to Trails. Council could also require further amendments to be to the Policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be effective as of its adoption by Council.

OFFICER RECOMMENDATION

That the Council adopts the revised Rails to Trails policy as per Attachment A, to replace the current policy (Attachment B).

COUNCIL POLICY


City of Busselton
Geographic Bay

Council Policy Name: Rails to Trails

Responsible Directorate: Engineering and Works Services

Version: Proposed

1. PURPOSE

- 1.1. The purpose of this policy is to outline Council's commitment to the retention and management of land which previously formed part of the historical state wide railway network for recreational trail purposes.

2. SCOPE

- 2.1. This policy is applicable to the use of land that previously formed government railways within the district, referred to collectively as Rails to Trails.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council policy entitled "Rails to Trails"
Rails to Trails	Land that formerly formed part of the government railway network in the district being part of the lines: <ul style="list-style-type: none">• Boyanup to Busselton• Busselton to Flinders Bay• Wonnerup to Nannup

4. STRATEGIC CONTEXT

- 4.1. This policy links to Key Goal Area 3 – Environment, Key Goal Area 4 – Economy, and Key Goal Area 5 – Transport, of the City's Strategic Community Plan 2017 and specifically the following Community Objective/s:
- 3.2: Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations;
 - 4.3: Events and unique tourism experiences that attract visitors and investment; and
 - 5.3: Cycleways that connect our communities and provide alternative transport choices.

5. POLICY STATEMENT

- 5.1. Council recognises the significance of Rails to Trails as a strategic transport corridor, for recreation and for its heritage and environmental values.
- 5.2. It is the position of the Council that Rails to Trails should, with the exception of land required for public works that are of benefit to the community, be:
- retained as Crown land and managed for the primary purpose of 'recreation trail';
 - kept as a contiguous transport corridor;
 - be promoted, developed and managed as a walk-cycle recreation trail suitable for hiking and for riding of bicycles designed for trails;

- d. designed to retain its heritage characteristics and character, particularly with respect to the design of structures such as bridges, crossings and formations;
- e. made suitable for expected traffic and usage, particularly where the trail passes through built up and residential areas; and
- f. integrated with other recreational and heritage trails within the district and the broader region.

5.3. Where the Council determines that the City is capable of managing sections of the Rails to Trails that are Crown Reserve, the City may advise the Minister of Lands that the City would be willing to accept a management order over those sections of Crown Reserve.

5.4. The City will work cooperatively with neighbouring local governments, landowners and government agencies towards achieving a quality regional trails scheme and specifically advancement of Rails to Trails.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. Applied Archaeology, "Cultural Heritage Values Assessment for the Rails to Trails Project", January 2013
- 6.2. Mulloy Studio and Paul Kloeden, "Interpretation plan for Busselton to Flinders Bay Rail", August 2012
- 6.3. NGH Environmental, "Environmental Management and Maintenance Plan – Busselton to Flinders Bay Rail Trail", June 2013
- 6.4. Transplan Pty Ltd, "Busselton to Flinders Bay Rail Trail – Trail Development Plan", May 2013

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	13 April 2016	Resolution #	C1604/077

Last updated 13/04/2016

011	Rails to Trails	V3 Current
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1. PURPOSE

The government railway network within the region was once extensive and much of the land that formed the railway reserves remains as State land. As part of a statewide railway network, the three lines that ran through the district were:

- (a) Boyanup to Busselton;
- (b) Busselton to Flinders Bay; and
- (c) Wonnerup to Nannup.

The land has recognised heritage and environmental value and given the extent of the land, it also has potential for many uses. This policy provides that the land is retained as State land, as non-motorised transport corridors, and is managed for the purpose of recreation trails.

2. SCOPE

This policy applies to the use of land that formed government railways within the district; to establish a framework for the development and management of recreation trails on that land to form what may be referred to as "rails to trails"; and to link the rails to trails with other recreational and heritage trails within the region.

3. POLICY CONTENT

With respect to the land that formed the government railway network within the region, the Council recognises the significance of the land as a strategic transport corridor, for recreation and for its heritage and environmental values.

It is the position of the Council then that:

- (a) the land is a valuable public asset and should be retained as Crown land;
- (b) unless the Council approves otherwise, the land is to be kept as a contiguous transport corridor;
- (c) under the *Land Administration Act 1997* and with the Minister of Lands approval, the land is to be made Crown Reserve and managed for the primary purpose of 'recreation trail'; and
- (d) where the Council determines that the City is capable of managing sections of the Crown Reserve, the City may advise the Minister that the City would be willing to accept a management order over those sections of Crown Reserve.

It is the intent of the Council that:

- (a) the land be promoted, developed and managed as recreation trails for non-motorised transport, or what may be referred to as "rails to trails";
- (b) within the district, the Busselton Jetty forms the head of the rails to trails;
- (c) the rails to trails network is integrated with other recreational and heritage trails within the district and the broader region;
- (d) the City works openly with neighbouring local governments, landowners and government agencies towards achieving a regional trails scheme of world-class standard;

Last updated 13/04/2016

- (e) the promotion, development and management of the rails to trails be achieved through a strategic plan that has the endorsement of the Council and describes among other things: objectives, priorities, key stakeholders, communications, funding, resourcing and measures of success; and
- (f) the City engages the community in all phases of the development and management of the rails to trails.

That, where practicable:

- (a) a walk-cycle trail is constructed on the alignment of the old railway formation;
- (b) the character of the railway formation mound is retained;
- (c) the walk-cycle trail is made suitable for hiking and for riding of bicycles designed for trails, although where the trail passes through built-up and residential areas, the trail be made more suitable for the expected traffic and usage;
- (d) the heritage characteristics of the heritage railway be retained, particularly for the design of structures such as bridges, crossings and formations;
- (e) at various stages, the trail is designed allowing for access by broad sections of the community;
- (f) the trail provides for a range of interests and experiences including recreation, heritage, environmental and adventure; and
- (g) the landscape of the reserve land be retained and enhanced so that it is in keeping with the natural environment.

Policy Background

Policy Reference No. - 011

Owner Unit – Engineering and Facilities Services

Originator – Land and Infrastructure Officer

Policy approved by – Council

Date Approved – 13 April, 2016

Review Frequency – As required

Related Documents –

Background/History – Implemented 12 August, 2009

History

Council Resolution	Date	Information
C1604/077	13 April, 2016	Update to City Terminology and responsible business unit. Version 3
C1103/072	9 March, 2011	Reviewed by Council. No changes to content but adopted in revised format. Version 2
C0908/277	12 August, 2009	Date of implementation Version 1

7. GENERAL DISCUSSION ITEMS

7.1 PENDING REVIEW OF COUNCIL POLICY FEES ALLOWANCES AND EXPENSES FOR ELECTED MEMBERS

It has been identified that the current Fees Allowances and Expenses for Elected Members policy (attached for reference, noting the policy has been transferred into the new template) does not reflect what officers understand to the intention with respect to childcare reimbursements, in that it does not currently provide for reimbursement of childcare expenses incurred while an Elected Member is attending briefing sessions (held on a Wednesday afternoon) or other organised briefing sessions / workshops. In order to correct this, the Policy will need to be amended and readopted.

By way of statutory background, section 5.98(2)(b) of the Local Government Act 1995 (the Act) and Regulation 32 of the Local Government (Administration) Regulations 1996 provides that a Council member may be reimbursed for an expense of a kind prescribed (of which childcare is one) where it has been approved by the local government and where it is incurred in performing a function in his or her capacity as a council member with the express authority of the local government. Section 5.98 (4) of the Act provides that the expense approved by a local government for reimbursement may be approved either generally or in a particular case. All reimbursements are to be in accordance with the determinations made by the Salaries and Allowances Tribunal.

The requirement to review the policy with respect to the reimbursement of childcare expenses also provides the opportunity to review other aspects of the policy that may benefit from some clarification. Officers have identified the following additional areas for discussion and potential amendments:

- Reimbursement of travel expenses and specifically clarification with respect to 'attendance at flagship events';
- Corporate attire expenses and clarification as to the per annum basis in relation to the \$750 reimbursement limit (i.e. election year or financial year);
- The setting of clearer timeframes for reimbursements such that reimbursements are (as far as possible) sought and paid for within a financial year and within an agreed set time of costs being incurred.

Prior to commencing a more thorough review of the policy feedback in relation to these items from the Policy and Legislation Committee is sought.

RECOMMENDATION

That the Policy and Legislation Committee note the discussion item and that discussion outcomes are considered by Officers when amending the Draft Policy if required.

COUNCIL POLICY		
Council Policy Name:	Fees, Allowances and Expenses for Elected Members	
Responsible Directorate:	Finance and Corporate Services	
		Version: Approved

1. PURPOSE

- 1.1. The purpose of this Policy is to provide the approval framework under which the provision of equipment, and all fees, allowances and reimbursements to Elected Members will be made to enable them to carry out their role as an Elected Member effectively.

2. SCOPE

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

3. DEFINITIONS

Term	Meaning
Act	Local Government Act 1995
Determination	The determination of the Salaries and Allowances Tribunal for Local Government Chief Executive Officers and Elected Members as current from time to time
Elected Member	Any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor.
Policy	This City of Busselton Council policy entitled "Fees, Allowances and Expenses for Elected Members"
Regulation	Local Government (Administration) Regulations 1996

4. STRATEGIC CONTEXT

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

5. POLICY STATEMENT

Elected Members

- 5.1. In accordance with Division 8 of Part 5 of the Act Elected Members are entitled to receive a fee for meeting attendance, be reimbursed for expenses and/or be paid an allowance for certain types of expenses. Certain payments are an automatic entitlement in accordance with the Act, while others require specific local government approval.

Provision of equipment

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

Information and communication technology allowance

- 5.5. In accordance with the relevant Determination, all Elected Members are eligible to claim an annual information and communications technology allowance, the amount of which will be included in the Schedule.
- 5.6. This allowance is to cover an Elected Member's costs in relation to expenses that relate to information and communications technology, for example telephone rental and call charges and internet service provider fees, and that are of a kind prescribed by regulation 32(1) of the Regulations.
- 5.7. The information and communications technology allowance will be paid monthly or quarterly in arrears. The allowance will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, Elected Members, for the purposes of budget development, will be requested to indicate whether it is their intention to claim the information and communications technology allowance and their preferred payment method. Nothing in the relevant legislation or this policy prevents an Elected Member from changing their intention at any time.

Reimbursement of childcare expenses

- 5.8. In accordance with the 5.98 (2) (a) of the Act an Elected Member who incurs childcare expenses due to their attendance at a Council meeting or a meeting of a formally constituted Council committee of which they are a member is entitled to be reimbursed.
- 5.9. The extent to which the childcare expenses incurred will be reimbursed will be in accordance with the relevant Determination. For the purposes of this section, the number of hours claimed shall be limited to the actual length of the meeting, with a nominal time allowance for partaking in refreshments and travel to and from the place of care.

Reimbursement of travel expenses

- 5.10. In accordance with the Act an Elected Member who incurs expenses to travel to a Council meeting or a meeting of a formally constituted Council committee of which they are a member is entitled to be reimbursed. Elected Members can also be reimbursed for other types of travel in accordance with Regulation 32 of the Regulations.
- 5.11. The following list represents the meetings and events at which the attendance of an Elected Member is required for which the Elected Member will be able to claim reimbursement in accordance with the relevant Determination for incurring travel expenses:
- a. Council meetings - ordinary and special;
 - b. Committee meetings of a formally constituted Council committee of which they are a member or a deputy member acting in the capacity of a member;
 - c. Electors' meetings - annual and special;
 - d. civic receptions hosted by the City of Busselton;
 - e. visits by Ministers of the Crown or other distinguished visitors of similar status;
 - f. City organised inspection tours of matters arising before the Council or as a JDAP member;
 - g. any City-convened meeting by the Mayor or CEO requiring Elected Member attendance, including briefing sessions, workshops and other forums;
 - h. Elected Member training courses;
 - i. City organised meetings with ratepayers;
 - j. attendance at Flagship* functions and events held within the boundaries of the City and as determined by the Mayor and CEO at the commencement of each calendar year or as determined during the year;
 - k. where the Mayor is unable to attend a function or event and has requested another elected member to attend on his behalf;
 - l. seminars and conferences attended in the capacity of an Elected Member as approved by the City in accordance with Policy 08 "Councillors Induction, Training and Professional Development";
 - m. meetings of community groups or other external organisations of which the Elected Member has been appointed the Council's representative / delegate by Council resolution (except where the other body pays the elected member for meeting attendance and/or travel e.g. ministerial appointment to State Advisory Boards).
- * Flagship events and functions will be published in the Friday factsheet or will be the subject of a specific invitation sent by the City's administration.
- 5.12. Where large distances are involved and when practicable, available Elected Members are encouraged to use a City-owned motor vehicle in the first instance.
- 5.13. The reimbursement will be made available to the Elected Member on the receipt of a certified claim form and in accordance with the rates determined by the relevant Determination.
- 5.14. Where a City vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed. Subject to the approval of the Chief Executive Officer or delegate, the Elected Member is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use does not go beyond use of a minor incidental nature.

Reimbursement of expenses while away from home on sanctioned activities

- 5.15. Expenses incurred for conferences, training, seminars and similar occasions requiring an Elected Member to stay overnight away from their place of residence will be reimbursed to the Elected Member or paid directly by the City in accordance with the following guidelines.
- 5.16. Air travel and accommodation will be arranged and paid for by the City in consultation with the Elected Member and the key considerations will be cost effectiveness and for accommodation also proximity to the location at which the conference, training, seminar or similar occasion is being held.
- 5.17. While staying in the accommodation provided by the City for the purpose of enabling attendance at the approved conference, training or seminar, the expenses to be met by the City will be:
- cost of laundry for Elected Member and spouse for greater than 2 nights;
 - taxi fares or other public transport - only where these directly relate to the activity and no other transport is provided and only for spouse when with Elected Member;
 - daily sustenance allowance per day, in accordance with the Public Service Award 1992 for Elected Member only;
 - specific conference related meals for Elected Member and spouse.

Reimbursement of hospitality expenses

- 5.18. Elected Members may seek reimbursement of the reasonable costs of beverages or snack items provided during any meeting or networking opportunity that relates to City activities, subject to the provision of receipts.

Corporate attire expenses

- 5.19. Each Elected Member is eligible to be provided with a range of corporate attire (with City logo) on being elected and is entitled to an additional amount of \$750pa for business attire for each year of the election term.
- 5.20. Upon election, Elected Members will be entitled to be issued with the following items:
- Corporate attire with City logo (and not charged against the allowance):
 - corporate suit (male – Trousers and Jacket);
 - corporate suit (female – Skirt, Dress, Pants and Jacket);
 - corporate shirts/blouses etc.;
 - casual/Light weight Fleecy Jacket;
 - polo top;
 - City tie/scarf.
 - Other (charged against the allowance):
 - business attire (which may consist of a suit, jacket and shirts/blouses);
 - shoes (up to the value of \$150);
 - dry cleaning and maintenance of corporate and business attire.
- 5.21. All of the corporate attire acquisitions should be acquired through the City's approved uniform supplier.
- 5.22. All items of corporate attire which are branded with the City of Busselton's logo should be returned to the City on expiry of office.

Mayor**Mayoral allowance**

- 5.23. In addition to their entitlements as an Elected Member under Section 3.1 of this policy, the Mayor is eligible for a Mayoral allowance in accordance with the Act. In accordance with the relevant Determination the Mayor of the City of Busselton shall be paid an allowance within the Band established as set by Council when the annual budget is adopted, payable monthly or quarterly in arrears.
- 5.24. The allowance will be calculated on a pro-rata basis for any Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Mayoral allowance and their preferred payment method. Nothing in the relevant legislation or this Policy prevents the Mayor from changing their intention at any time.

Provision of a Mayoral vehicle

- 5.25. The Mayor shall be provided with a City-owned motor vehicle for use in his or her official capacity. The Mayor is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use does not go beyond use of a minor incidental nature. Nothing in this section prevents the vehicle from being utilised in accordance with City fleet guidelines by other elected members with the agreement of the Mayor or CEO.
- 5.26. The Mayor may also use the vehicle for private use for convenience or necessity on a cost recovery basis. Details of private use shall be recorded in a log book which shall be provided to the City on a quarterly basis.
- 5.27. The Mayor is permitted to use the vehicle for private use without further authorisation on the basis that the cost reimbursement is made to the City by agreement in one of the following ways:
- a. by deduction from the quarterly members allowance payment;
 - b. an invoice be given to the Mayor for reimbursement.
- 5.28. The mileage rate would be calculated at the rate determined by the State Salaries and Allowances Tribunal.
- 5.29. Unless Council approves otherwise, the mayoral vehicle may only be used for private purposes for travel within the State of WA.

Deputy Mayor**Deputy Mayor's allowance**

- 5.30. In addition to their entitlements as an elected member under Section 3.1 of this policy, the Deputy Mayor may be paid a Deputy Mayor's allowance in accordance with the Act. In accordance with the relevant Determination the Deputy Mayor can be paid up to 25% of the Mayoral allowance. The Deputy Mayor of the City of Busselton shall be paid the maximum percentage of the Mayoral allowance of 25%, payable monthly or quarterly in arrears.
- 5.31. The allowance will be calculated on a pro-rata basis for any Deputy Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Deputy Mayor, for the

purposes of budget development, will be requested to indicate whether it is their intention to claim a Deputy Mayor's allowance and their preferred payment schedule. Nothing in the relevant legislation or this policy prevents the Deputy Mayor from changing their intention at any time.

6. RELATED DOCUMENTATION / LEGISLATION

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

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	11 October 2017	Resolution #	C1710/249

8. **NEXT MEETING DATE**

Thursday, 25 September 2018

9. **CLOSURE**