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CITY OF BUSSELTON

MINUTES FOR THE POLICY AND LEGISLATION COMMITTEE MEETING HELD ON 19 OCTOBER 2017

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MINUTES

MINUTES OF A MEETING OF THE POLICY AND LEGISLATION COMMITTEE HELD IN COMMITTEE ROOM , ON 19 OCTOBER 2017 AT 9.30AM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 9.32am.

2. ATTENDANCE

Presiding Member:

Cr Rob Bennett (Deputy)

Members:

Cr Grant Henley Mayor (left at 10.00am)
Cr Ross Paine
Cr Robert Reekie
Cr Gordon Bleechmore (Deputy)

Officers:

Mr Paul Needham, Director, Planning and Development Services (left at 10.05am)
Mr Cliff Frewing, Director, Finance and Corporate Services
Ms Tanya Gillett, Manager Environmental Services (left at 10.05am)
Mr Ian McDowell, Ranger & Emergency Services Coordinator (left at 10.05am)
Miss Kate Dudley, Administration Officer, Governance

Apologies:

Cr Coralie Tarbotton

3. PUBLIC QUESTION TIME

Nil

4. DISCLOSURE OF INTERESTS

Nil

5. CONFIRMATION OF MINUTES

5.1 Minutes of the Policy and Legislation Committee Meeting held 21 September 2017

COMMITTEE DECISION

PL1710/161 Moved Councillor G Henley, seconded Councillor R Paine

That the Minutes of the Policy and Legislation Committee Meeting held 21 September 2017 be confirmed as a true and correct record.

CARRIED 5/0

6. REPORTS

6.1 NEW COUNCIL POLICY - PORTABLE ADVERTISING SIGNS IN PUBLIC PLACES

SUBJECT INDEX:	Activities in Thoroughfares and Public Places and Trading Local Law 2015
STRATEGIC OBJECTIVE:	Development is managed sustainably and our environment valued.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Ranger and Emergency Services
REPORTING OFFICER:	Ranger & Emergency Services Coordinator - Ian McDowell
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Council Policy 146/4 Signs Placed on Council Controlled Land ⇒ Attachment B Draft Council Policy - Portable Advertising Signs in Public Places ⇒

PRÉCIS

This new Council Policy has been developed as a means of providing a regulatory framework for the design and placement of portable advertising signs within the City of Busselton. The policy, underpinned by the *Activities in Thoroughfares and Public Places and Trading Local Law 2015* (the Local Law), is intended to provide clear direction to local business as to where they can display portable advertising signs, the types of signs requiring a permit, and the restrictions with regard to the number of signs and the times they may be displayed.

This report recommends adoption of the new policy(Attachment B) and revocation of Council Policy 146/4 – Signs Placed on Council Land (see Attachment A).

A report on the draft Policy was presented to the Policy and Legislation Committee on 21 September 2017. Due to the nature of the report and the potential importance of the issue to local businesses, the Committee asked that the report be deferred pending a Council briefing session. The Council briefing was subsequently held on 11 October 2017.

As a result of that further consideration, some relatively minor changes have been made to the proposed interim approach (i.e. in terms of regulation between now and when the policy will be formally considered after consultation), but no changes have been made to the draft policy itself. It should be noted that the draft policy itself will not be implemented until after consultation has occurred, and the Council has then also considered the outcomes of the consultation process.

BACKGROUND

The proliferation of portable advertising signs on display throughout the district is sometimes unsightly, a distraction for motorists, and hazardous to pedestrians. Portable advertising signage is nevertheless important for many businesses and appropriate where properly managed.

The new policy replaces Council Policy 146/4 – Signs Placed on Council Controlled Land. The old policy covered both portable and fixed signs, and was focussed on the removal of signs placed on City land without approval. The new policy deals only with portable advertising signs, has a focus on which signs are permitted to be displayed on public land, and when and where they may be displayed.

Currently, the City removes or requests the removal of portable advertising signs under the following circumstances:

- Where the placement of the sign is considered a safety hazard (e.g. on major roundabouts); or
- In response to complaints from members of the public regarding an excessive number of signs in a given location.

The main issue that arises from this approach is the question from impacted business owners: “*if we can’t put our signs there, where can we put them?*” While the Local Law provides a broad framework for the management of portable signs, it does not provide any advice regarding that kind of question. For example, it states where signs cannot be displayed without a permit but does not specify where and when they may be displayed. The Local Law is also silent on the number of signs that may be displayed with a permit.

STATUTORY ENVIRONMENT

Pursuant to section 2.7(2)(b) of the *Local Government Act 1995*, a role of Council is to determine the local government’s policies.

Pursuant to clause 3.2 of the *Activities in Thoroughfares and Public Places and Trading Local Law 2015* (the Local Law):

- (1) *A person shall not without a permit, erect, place or maintain an advertising sign:*
 - (a) *on or above a thoroughfare;*
 - (b) *on a path;*
 - (c) *over any path where the resulting vertical clearance between the sign and the path is less than 2.5 metres (s.45B of the Building Regulations 2012 requires a vertical clearance of 2.75 metres and supercedes this clause of the Local Law);*
 - (d) *in any location where the sign is likely to obstruct line of sight along a thoroughfare or cause danger to the person using the thoroughfare; or*
 - (e) *on any natural feature including a rock or tree on a thoroughfare, or on any bridge or the structural approaches to a bridge;*
- (2) *Notwithstanding subclauses (1) and (2), a permit is not required in respect of a home open sign or garage sale sign provided that:*
 - (a) *the sign neither exceeds 500mm in height or 0.5m² in area;*
 - (b) *the sign is placed or erected on a thoroughfare no more than half an hour prior to the garage sale or home open and is removed within half an hour of the close of the garage sale or home open; and*
 - (c) *there is no more than one garage sale or home open sign at any road intersection and no more than six separate signs which delineate not more than 2 alternative routes to the home open or garage sale.*

Pursuant to section 29(1) of the Local Government (Functions and General) Regulations (the Regulations):

- (1) *A contravention of a regulation or local law made under the Act can lead to the impounding of goods involved in the contravention if:*
 - (a) *it occurs in a public place; and*

- (b) *either:*
- i. *the presence of the goods presents a hazard to public safety, or obstructs the use of any place; or*
 - ii. *where the regulation or local law prohibits or regulates the placement of the goods, the goods are located in a place contrary to that regulation or local law.*

RELEVANT PLANS AND POLICIES

This report proposes adoption of a new Council Policy (Attachment B); and replaces the existing Council Policy 146/4 – Signs Placed on Council Controlled Land. Unlike the previous policy that dealt with fixed and portable signs, the focus of the new policy is solely portable advertising signs.

FINANCIAL IMPLICATIONS

There are two potential sources of income as a result of the implementation of this policy and enforcement of the Local Law.

The first relates to income generated as the result of the City impounding portable advertising signs displayed contrary to the Local Law. The impound fee, as prescribed in the Adopted Schedule of Fees and Charges for the 2017/18 financial year, is \$74 per sign. It is unlikely there would be any significant income as a result of the City impounding signs as, in many cases the cost to replace the sign would be less than the impound fee and as such, the owner of the sign is unlikely to claim it. Businesses may be more inclined to pay the impound fee if the City has cause to impound more costly “A” or “T” frame signs, or banner signs that are displayed without a permit following the implementation of this policy.

The second relates to the annual application fee for a permit to display a portable advertising sign, which is currently \$213.00 per application. This fee would be payable by all businesses who currently display the “A” or “T” frame signs that are prevalent in the Busselton and Dunsborough CBDs, and who wish to continue to display these signs.

It should be noted that these fees are not new fees. The sign impound fee dates back to the Adopted Schedule of Fees and Charges for the 2010/11 financial year, while the application fee was introduced as a new fee in 2015/16.

It is envisaged a new fee will be proposed in the Schedule of Fees and Charges for the 2018/19 financial year for the renewal of a permit to continue to display a portable advertising sign. The intent of the permit renewal will be to cover the administration required to renew the permit, which would generally be approved if the public liability insurance remains current and there has been no change to the quality, placement or design of the approved sign. The amount will be determined during development of the Schedule of Fees and Charges for the 2018/19 financial year and is envisaged to be less than the application fee for a new sign.

Long-term Financial Plan Implications

No significant implications.

STRATEGIC COMMUNITY OBJECTIVES

The draft policy aligns with and supports Council’s Key Goal Area 3 – Environment: valued, conserved and enjoyed; and more specifically Community Objective 3.1 – development is managed sustainably and our environment valued.

This policy provides a regulatory framework for the design and placement of portable advertising signs within the City of Busselton. In doing so it provides a mechanism for reducing the proliferation of portable advertising signage in the natural and built environment.

RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer recommendations has been undertaken using the City's risk assessment framework.

The greatest risk associated with the implementation of this policy and enforcement of the Local Law is one of reputational harm to the City. One of the community objectives in key goal area 4 (Economy) of the City's Strategic Community Plan 2017 is "*a community where local business is supported and in turn drives our economy*". Enforcement of the Local Law through implementation of this policy may be seen by some local business as restricting their ability to use this type of advertising, thereby adversely affecting their business and contradictory to the community objective.

That being said, it is not the intent of the policy to stop the use of portable advertising signs altogether. The intent is to manage their use by ensuring the placement of signs does not restrict pedestrian and/or vehicular access, and to ensure the signs are constructed and placed in a manner that does not present a safety risk to the wider community. The policy will also ensure a 'level playing field' for businesses.

It is however, the intent to prevent the use of portable advertising signs as a means of remotely advertising a business and to manage the number and placement of signs used to advertise garage sales and homes open. In essence the policy will provide the City with clear guidance on how to ensure compliance with the Local Law.

CONSULTATION

No structured external community consultation has been undertaken prior to or following the development of the draft policy. It is a recommendation of this report that Council endorse the draft policy for consultation for a period of 28 days commencing at the end of January 2018. As part of the consultation process the City will write to the following regional business associations seeking their feedback:

- Busselton Chamber of Commerce and Industry
- Dunsborough Yallingup Chamber of Commerce
- Margaret River Wine Association
- Margaret River Busselton Tourist Association
- Real Estate Institute of Western Australia

OFFICER COMMENT

It is recommended that the Council adopt the draft policy for public consultation. Further, it is proposed that the consultation process commence in late January 2018. This timeframe is likely to cause continued uncertainty with businesses regarding the permitted use of portable advertising signs in a public place and as such, it is proposed that subject to Council's endorsement of this report, the City will commence enforcement (including removal by the City, where other options have been unsuccessful) of portable signs that would not otherwise be granted a permit under the existing provisions of the Local Law, generally using the guidance provided in the draft policy.

Enforcing the removal of signs that would not be granted a permit under the terms of the policy (e.g. portable advertising signs being used remotely as a means of advertising a business, and home open and other portable real estate signs that are displayed contrary to the Local Law and/or provisions of the policy) would begin immediately. Pending the proposed adoption of the new policy in April / May 2017, business proprietors will be contacted by Rangers and given 48 hours to remove the unauthorised sign or signs. There will be no penalty unless the business proprietor refuses to comply at which time a caution will be issued and the signs impounded. If the owner of the sign wishes to claim an impounded sign, a \$74 impound fee applies.

Business proprietors who are currently displaying signs that would be permitted under the Local Law and policy, or who would like to display a new sign pursuant to the Local Law and policy will have a six month grace period following the adoption of the new policy by Council to apply for a permit. After this period the City will enforce the removal of unauthorised signs under the authority of the Local Law and *Local Government Act 1995*.

CONCLUSION

Whilst the Local Law governing the use of portable advertising signs has been in place for some time (since February 2015 in its current form), there has been limited direction in how to apply the requirements with regard to the portable sign permit applications process, and the enforcement and removal of unauthorised signs. The new policy would provide this guidance and provide a clear framework for the management of portable advertising signs in our District.

OPTIONS

Council may amend or reject the new draft policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

1. It is intended that the draft Policy will be considered by the Policy and Legislation (P&L) Committee on 19 October 2017. At this time it will be recommended that the draft Policy be approved for consultation.
2. If endorsed by the P&L Committee, the draft Policy will then go to Council on 8 November 2017.
3. Subject to the approval of Council the draft Policy will be available for consultation in late January 2018 for a period of 28 days.
4. If supported by Council, the City would commence immediate enforcement for the removal of signs that would not otherwise be approved under the Local Law.
5. Officers will consider the results of the consultation and present a report to Council seeking adoption of the new policy in April/May 2018.
6. Subject to adoption of the new Policy, business owners will then have up to six months grace period to apply for a permit to display portable advertising signs in accordance with the Local Law and the new policy.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**PL1710/162** Moved Councillor G Bleechmore, seconded Councillor R Paine

That the Council:

1. Endorses for consultation draft Council Policy – Portable Advertising Signs in Public Places as attached (Attachment B);
2. Notes the enforcement of signs that would not be granted a permit under the provisions of the *Activities in Thoroughfares and Public Places and Trading Local Law 2015* (the Local Law), and the new policy will begin immediately following adoption of the new policy; and
3. Cancel Council Policy 146/4 – Signs Placed on Council Land (Attachment A).

CARRIED 5/0

Attachment B

CPXXX	Portable Advertising Signs in Public Places	V1 Draft
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1.0 PURPOSE

- 1.1 The purpose of this policy is to provide a regulatory framework for the design and placement of portable advertising signs within the City of Busselton. Council supports the need for signage to promote tourism, business, public events and community groups and services but also supports the need for regulation so that signage does not adversely impact the amenity and streetscapes of the City.

2.0 SCOPE

- 2.1 This policy will guide the City, local business and the community on circumstances where portable advertising signs may be displayed in public places within the District; and also circumstances where signs may be removed from public places if displayed contrary to this policy and/or our Local Law.
- 2.2 This policy does not cover:
- a. fixed directional tourism signs or signs promoting public events;
 - b. signs and advertising devices on or in the vicinity of highways and main roads that come under the control of the Commissioner of Main Roads; or
 - c. signs, advertising or otherwise, that are covered under separate legislation (including election signage), local planning policies or the town planning scheme.

3.0 DEFINITIONS**General**

Advertising sign: a sign that is used for the purpose of advertisement or to draw attention to a product, business, person or event and includes a home open sign and garage sale sign. In the case of signs advertising a business or commercial venture they shall only display material which advertises the business or the products available from the business to which the sign relates.

Carriageway: a portion of a road that is improved, designed or ordinarily used for vehicular traffic and includes the shoulders, and areas, including embayments, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and, where a road has two or more of these portions divided by a median strip, the expression means each of those portions separately.

Event: an occurrence proposed to be held within the City of Busselton on private or public land, either indoor or outdoor by a person(s)/group/organisation, where people assemble at a given time for entertainment, recreation, cultural or community purposes. This includes but is not limited to:

- a. concerts and music festivals;
- b. motorsport events, motor vehicle rallies and displays;
- c. sporting events;
- d. cultural and community events;
- e. shows and fairs;
- f. exhibitions, wine and food festivals; and
- g. surfing events.

Footpath: an area that is open to the public that is designated for, or has as one of its main uses, as use by pedestrians and includes dual use or shared paths.

Local Law: the City of Busselton *Activities in Thoroughfares and Public Places and Trading Local Law 2015*.

Median strip: any physical provision, other than lines, dividing a road to separate vehicular traffic proceeding in opposing directions or to separate two one-way carriageways for vehicular traffic proceeding in opposing directions.

Portable sign: includes 'A' frame or inverted 'T' signs, garage sale signs, home open signs, horizontal and vertical banner signs, and variable message signs (including trailer mounted)

Public place: any thoroughfare or place the public is allowed to use, whether or not the thoroughfare is on private property, and includes local government land/property but does not include premises on private property from which trading is lawfully conducted.

Sporting and community sign: a portable advertising sign erected by not-for-profit sporting, or community groups or services for the purpose of advertising a sporting or community event (eg. cultural activities, sporting registration days, arts and craft fairs, market days or other events of public interest).

Thoroughfare: a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end.

Traffic controlled intersection: an intersection that has traffic control lights, stop signs, or give way signs directing traffic.

Traffic island: any physical provision, other than lines, marks or other indications on a carriageway, made at or near an intersection to guide vehicular traffic.

Sign Types

'A' frame or 'T' frame sign: a self-supporting sign of rigid, lightweight material that is capable of being easily moved by hand, in 'A' or 'T' frame configuration.

Garage sale sign: a sign made from cardboard/corflute, paper or other lightweight material that is used to direct persons to a garage sale at residential premises.

Home open sign: a sign made from cardboard/corflute or other lightweight material used to direct persons to a home for sale that is open for inspection and includes display homes.

Horizontal banner sign: a sign made of lightweight, non-rigid material such as cloth, canvas or similar attached by rope or similar material to poles or other vertical anchoring points.

City project sign: a sign made from cardboard/corflute or other lightweight material used to promote constructions projects being undertaken by the City.

Vertical banner sign: a fabric or similar material sign with a single mast constructed of carbon-fibre or similar flexible material attached to a weighted base or otherwise anchored to the ground. These are typically marketed as 'teardrop', 'feather' or 'blade wing' signs.

Variable message sign: an electronic sign that is capable of displaying a single message, or a series of messages.

4.0 LEGISLATION

4.1 Clause 3.2 of the Local Law:

(1) *A person shall not without a permit, erect, place or maintain an advertising sign:*

(a) *on or above a thoroughfare;*

(b) *on a path;*

- (c) *over any path where the resulting vertical clearance between the sign and the path is less than 2.5 metres (Note: s.45B of the Building Regulations 2012 require a vertical clearance of 2.75 metres and would prevail over the Local Law);*
 - (d) *on or within 1 metre of a carriageway;*
 - (e) *in any other location where the sign is likely to obstruct line of sight along a thoroughfare or cause danger to the person using the thoroughfare; or*
 - (f) *on any natural feature including a rock or tree on a thoroughfare, or on any bridge or the structural approaches to a bridge.*
- (2) *Notwithstanding subclauses (1) and (2), a permit is not required in respect of a home open sign or garage sale sign provided that:*
- (a) *the sign neither exceeds 500mm in height or 0.5m² in area;*
 - (b) *the sign is placed or erected on a thoroughfare no more than half an hour prior to the garage sale or home open and is removed within half an hour of the close of the garage sale or home open; and*
 - (c) *there is no more than one garage sale or home open sign at any road intersection and no more than six separate signs which delineate not more than 2 alternative routes to the home open or garage sale.*
- 4.2 Under section 29(1) of the *Local Government (Functions and General) Regulations 1996* (the Regulations):
- (1) *A contravention of a regulation or Local Law made under the Act can lead to the impounding of goods involved in the contravention if:*
- (a) *it occurs in a public place; and*
 - (b) *either:*
 - i. *the presence of the goods presents a hazard to public safety, or obstructs the use of any place; or*
 - ii. *where the regulation or Local Law prohibits or regulates the placement of the goods, the goods are located in a place contrary to that regulation or Local Law.*

5.0 POLICY CONTENT

General

- 5.1 Portable advertising signs are not to be:
- a. erected, placed or maintained on roundabouts, traffic islands, median strips, or within 10m of traffic controlled intersections; or
 - b. attached to existing signs, including other advertising signs, or on any road related infrastructure such as traffic sign supports, bus shelters, or on or between trees or other vegetation; or
 - c. electronically illuminated or have an electronic or animated display; or
 - d. placed on any footpath where the speed limit on the road abutting the footpath is 60 kilometres per hour or greater; or
 - e. mounted to a vehicle and/or trailer.
- 5.2 Portable advertising signs in public places shall:
- a. have no moving parts once the sign is in place;

- b. be placed on the property boundary and provide a minimum of 1.2 metres clearance from the abutting thoroughfare.
- c. be weighted or anchored to retain their position in all weather conditions other than the circumstance in (d) below;
- d. be removed by the owner during periods of severe weather warnings issued by the Bureau of Meteorology;
- e. be manufactured from high quality materials (metal, plastic, wood or fabric) and have professional sign writing and/or graphics (including blackboards that are professionally presented);
- f. be designed and supported in a manner that ensures there is no risk of injury to the public through sharp edges, projections, potential trip hazards or similar; and
- g. in the case of signs that advertise a business or other commercial venture, only be displayed during operating hours of the business or other commercial venture to which it relates.

Signs requiring a permit

- 5.3 The City of Busselton *Activities in Thoroughfares and Public Places and Trading Local Law 2015* establishes the need for a permit to display certain types of portable advertising signs.
- 5.4 Subject to clause 2.2, permits are required for 'A' or 'T' frame signs, horizontal and vertical banner signs; and variable message signs that:
 - a. promote or advertise a business or any other commercial venture; and
 - b. promote or advertise a sporting event, community event, community group or community service.
- 5.5 A permit application fee will be charged for signs that advertise a business or commercial venture, but will not be charged for signs promoting charitable not-for-profit sporting or community events or services. To not be charged a fee, an organisation or individual is required to be a not-for-profit organisation (with an incorporation certificate) or a charitable organisation. The permit application fee is prescribed in Council's adopted Schedule of Fees and Charges.
- 5.6 The owner of a portable advertising sign advertising a business or commercial venture will be required to provide evidence of current public liability insurance to the value of \$10,000,000, which indemnifies the City of Busselton against any claims for damages arising from the sign on the public land.
- 5.7 Portable advertising signs for which a permit is required and has been issued will be required to indelibly display, the current permit number at the top right hand corner on one external face of the sign. Permits will generally be issued for 3 years, unless the sign is only required for a short duration, or unless this policy requires otherwise; after which the permit holder will be required to apply for a permit renewal.
- 5.8 'A' or 'T' frame signs shall:
 - a. be limited to a maximum of one sign per business premises and placed directly in front of, or as near as is practically possible to the business to which it relates;
 - b. be placed with a set back from the carriageway of no less than 0.5m, and placed to maintain a clear thoroughfare (footpath) width of no less than 1.8m; and
 - c. have a maximum vertical or horizontal dimension of 1.2m and have an area allocated for advertising of no more than 0.9m² on either side.
- 5.9 Horizontal banner signs:

- a. will only be approved when promoting or advertising sporting or community events or services;
 - b. shall have a maximum height of 1.5m;
 - c. shall have a maximum width of 2.5m; and
 - d. may be displayed for a maximum period of 14 days before an event and removed by the owner no later than one day after the event.
- 5.10 Vertical banner signs shall:
- a. be a fabric sign with a single mast;
 - b. have a maximum flag size of 2.8m by 1.0m with a maximum height, including the stand, of 3.5m (when placed on an open verge);
 - c. have a maximum flag size of 2.0m by 1m with a maximum height, including the stand, of 2.5m (when placed on a footpath);
 - d. be no more than 60cm wide below 2m high; and
 - e. have no more than one vertical banner per 4m of street frontage (with a maximum of four banners per business) and excludes the use of an 'A' or 'T' frame sign (where more than one vertical banner is displayed, each banner shall display a different product or message).
- 5.11 The City will not approve the use of variable message signs in a public place for the purpose of advertising a business or commercial venture.
- 5.12 Owners of approved business or commercial ventures that have no fixed business location may apply to use up to two portable advertising signs ('A' or 'T' frame, or other lightweight signs but not including banner or variable message signs) to advertise the location from which the business is currently being undertaken. The first sign to be at the approved trading location, the second is to be located within 500 metres driving distance of that location and shall otherwise comply with the requirements of this policy and the Local Law.

Signs not requiring a permit

- 5.12 Permits are not required for garage sale signs or home open signs. The owner of the signs is responsible for their placement and removal in accordance with this policy and the Local Law. Removal of the signs includes all materials from which the sign is constructed, and all materials used to secure the signs in place.
- 5.13 Garage sale signs are to include the address details, street number and street name, of the premises in which the garage sale is being held.
- 5.14 Restrictions:
- a. no more than six separate signs shall be used to advertise or promote the same garage sale, or home open;
 - b. signs are not to be displayed more than one kilometre from the garage sale or home open, within 250m of any other sign advertising or promoting the same garage sale or home open, or within 50m of any other portable advertising sign; and
 - c. the signs should not delineate any more than two alternative routes to the garage sale, or home open.
- 5.15 Garage sale signs, and home open signs shall:
- a. be free standing and not affixed to any sign, post, power or streetlight pole, or similar structure (including trees and other vegetation);
 - b. not exceed 500mm in height or 0.5m² in area;

- c. not be displayed any more than 30 minutes before, or 30 minutes after the event;
- d. not obstruct the vision of a driver of a vehicle entering or leaving a street or other public place;
- e. not interfere with the safe and convenient passage of pedestrians; and
- f. not be placed in any public place contrary to this policy and/or the Local Law.

City project specific signs

- 5.16 City project specific signs have been developed by the City as a means of promoting public works and projects it is undertaking throughout the District. These signs will only be displayed during construction works when there are workers on site.
- 5.17 As the approving authority for portable advertising signs, the City will be deemed to have approval to display these signs without the need to apply for individual permits.

Refusal of Applications

- 5.18 Applications that do not comply with the requirements of the Local Law and this Policy will be refused by the City.

Removal of unauthorised signs

- 5.19 Portable advertising signs placed contrary to this policy and/or the Local Law may be impounded by the City.
- 5.20 Impounded signs may be claimed by the owner following payment of an impound fee as prescribed in Council's Schedule of Fees and Charges. In addition to the impound fee, owners of impounded signs may also receive a written caution and/or an infringement.

Policy Background

Policy Reference No – TBD

Owner Unit – Ranger and Emergency Services

Originator – Ranger and Emergency Services Coordinator

Policy Approved by – Council

Date Approved –

Review Frequency – as required

Related Documents – *Activities in Thoroughfares and Public Places and Trading Local Law 2015*

History

Council Resolution	Date	Information
		Date of Implementation Version 1

6.2 REVIEW OF COUNCIL POLICY 009/6 - BEACHES AND FORESHORE AREAS - ACCESS BY THE HOLDER OF A COMMERCIAL FISHING BOAT LICENCE

SUBJECT INDEX:	Local Government Property Local Law 2010
STRATEGIC OBJECTIVE:	Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Ranger and Emergency Services
REPORTING OFFICER:	Ranger & Emergency Services Coordinator - Ian McDowell
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A CP 009/6 Beaches and Foreshore Areas - Access by the Holder of a Commercial Fishing Boat Licence (V3 Draft)⇒ Attachment B CP 009/6 - Beaches and Foreshore Areas, Access by Licenced Professional Fishermen (V2 Current)⇒

PRÉCIS

A review of Council Policy 009/6 has been undertaken. The revised draft policy has been reformatted to reflect existing corporate standards for Council policies, has been reworded to make it gender neutral and has been refined to exclude some beach locations where vehicle access is no longer practically possible. It also now includes information relating to the applications process and associated fees.

BACKGROUND

The policy was originally adopted in 2002, and was last reviewed in December 2004 at which time there were no changes.

Commercial fishers access beaches in the City in a professional capacity and, as a result, derive a financial income from their commercial fishing activities. In the recent past some commercial fishers have suggested they are exempt from the requirement to apply and pay for a permit. They believe the exemption has been a long standing arrangement between themselves and the City. Others acknowledge the requirement to apply and pay for a permit and comply accordingly.

The revised draft policy seeks to formalise the requirement for holders of a commercial fishing boat licence to apply for a permit to allow them to access the beach and foreshore areas (ie. local government property).

STATUTORY ENVIRONMENT

Pursuant to section 2.7(2)(b) of the Local Government Act 1995, a role of Council is to determine the local government's policies.

Pursuant to section 2.1(1) of the City of Busselton *Local Government Property Local Law 2010* (the Local Law):

“Unless under the authority of a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property”.

Local government property means anything except a thoroughfare: which belongs to the City or in which the City has an interest; of which the City is the management body under the *Land Administration Act 1997* (the Act); or which is an otherwise unvested facility within s.3.53 of the Act.

Local government property includes most beaches and foreshores, other than where land is in private ownership, or is managed by the Department of Biodiversity, Conservation and Attractions (DBCA). When holders of a commercial fishing licence access beaches and foreshores in the City they are using land which is government property.

RELEVANT PLANS AND POLICIES

This report proposes adoption of the revised draft version 3 of Council Policy 009/6 as attached to this report (Attachment A).

A copy of version 2 of the Policy is also attached for reference (Attachment B). Note: this version has not been tracked changed as the revised draft Policy has been reformatted to meet existing corporate standards for council policies.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the adoption of the revised policy or this report.

Long-term Financial Plan Implications

There are no long-term financial plan implications associated with the adoption of the revised policy or this report.

STRATEGIC COMMUNITY OBJECTIVES

The draft policy aligns with and supports Council's Key Goal Area 3 – Environment: valued, conserved and enjoyed; and more specifically Community Objective 3.2 – natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations.

Regulating the control of vehicles on beaches and foreshores helps to conserve and protect the natural environment.

RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer Recommendation has been undertaken using the City's risk assessment framework. There are no significant risks identified.

CONSULTATION

An earlier version of this report was considered by the Policy and Legislation Committee on 17 August 2017. At that meeting, following representation from local commercial fishers, the City was asked to consult with local commercial fishers with regard to the revised draft policy.

The City subsequently wrote to a number of commercial fishers who were licenced to fish in waters off our District. Approximately 20 letters were sent out with only two written submissions received. The main points raised by the respondents were related to the practical aspects of accessing the beaches rather than the policy itself. However, both respondents made comment on the permit application fee. One asked if the fee was payable by all commercial fishers, the other asked if the fee could be waived.

On 14 September 2017, the Director Planning and Development, and the Ranger and Emergency Services Coordinator met with a delegation of local commercial fishers headed by the person who made the original representation to the City regarding the draft policy (this person also provided a written response as mentioned above). At this meeting it was agreed that changes to the draft policy would be made for the consideration of the Council, and that conditions, similar to those that had previously been in place, would be established as a requirement for a permit to be issued.

The recommended changes for Council to consider include:

1. That the permit be generally valid for a period of three years;
2. There will be a limit of three vehicles plus trailers per permit (rather than just one); and
3. Commercial Fisher's Beach Access permits will only be issued to the holder of a commercial fishing boat licence.

City officers support these changes as follows:

1. The fee charged for a permit is an administrative charge only; it is not a fee to access the beach as such. The only implication in establishing a three year permit is that the renewal fee, which is approximately two-thirds of the initial application fee, would reduce the income derived from administering the permit renewals in years two and three.
2. There are times (e.g. during the Salmon season) that commercial fishers need to access our beaches and foreshore areas with more than one vehicle and as such, it is proposed that a maximum of three vehicles plus trailers be approved for each permit. The existing policy is one vehicle per permit however, administratively there is no additional work required to allow up to three vehicles per permit.
3. Advice from local commercial fishers is that all members of a fishing crew are required to hold a commercial fishing licence. The commercial fishers have recommended that only the holder of a commercial fishing boat licence be eligible to apply for a Commercial Fisher's Beach Access Permit.

The delegation of commercial fishers who met with City staff indicated they would be prepared to pay the Permit Application fee for a three year permit allowing a maximum of three vehicles access to the City's beaches.

The delegation had input into the development of, and support for the following permit conditions:

1. Only holders of a valid commercial boat licence, as issued by Fisheries (Department of Primary Industries and Regional Development), will be eligible for a Commercial Fisher's Beach Access Permit.
2. There is a maximum of three vehicles per permit (these vehicles may have a trailer attached).
3. All vehicles, including trailers if attached, are to be registered with the Department of Transport; all drivers are to hold a current valid drivers' licence (permanent or temporary changes to the approved vehicles are to be advised to the City via email quoting the applicable Commercial Fishing Boat Licence number.
4. All vehicles are to display the Commercial Fishing Boat Licence on both sides of the vehicle (black characters not less than 100mm x 25mm in size on a yellow background).

5. Vehicles are only permitted on the beaches listed in Council Policy 009/6 Beaches and Foreshore Areas – Access by the Holder of a Commercial Fishing Boat Licence.
6. Vehicles are only permitted on the beach when the permit holder is engaged in commercial fishing activities.
7. Vehicles must enter onto, and exit from the beach only at the approved beach access points (vehicles are not to be driven on the primary sand dunes or any other place that is likely to cause environmental damage or erosion).
8. Vehicles are to be driven safely and in such a manner that is not likely to affect the enjoyment of other beach users.
9. Beaches and beach access points to be left clean at all times.
10. 2017/18 permits will remain valid until 30 June 2021 (permit renewals will be for three years).

Condition 10 will be changed at the beginning of each financial year so that any new permit applications will generally be valid for three years.

OFFICER COMMENT

The name of the policy has been changed from “Beaches and Foreshore Areas – Access by Licenced Professional Fishermen” to “Beaches and Foreshore Areas – Access by the Holder of a Commercial Fishing Boat Licence”. This has been changed to remove the gender bias that references “fishermen”, and reflects the Department of Fisheries terminology regarding commercial fishing licences (Fisheries are the statutory body responsible for issuing these licences).

Since the original policy was adopted access to some of the beaches within the City has changed. As a result some of the beaches and foreshore areas listed in the original policy are no longer accessible by vehicles and have been removed from the current policy. They are:

- Quindalup Boat Ramp end of Elmore Road
- Point Piquet Beach
- Wonnerup Beach east of boat ramp near bridge over inlet
- Sail Rock Bay

Other changes include:

- Formatting of the policy has been changed to reflect the existing corporate standards for Council policies; and
- The policy now references the requirements for holders of commercial fishing boat licences to apply for a temporary beach access permit which remains valid for 12 months, and for them to pay the associated application fee as per Council’s Adopted Schedule of Fees and Charges (currently \$157.50).

CONCLUSION

An internal review of Council Policy 009/6 – Beaches and Foreshore Areas, Access by Licenced Professional Fishermen has been completed. It has been reformatted to meet existing corporate standards, and now includes information relating to the need for holders of commercial fishing licences to apply for temporary beach access permits and to pay the associated application fee.

OPTIONS

Council may amend or not endorse the revised draft policy.

Note that not requiring a permit would require amendment of the Local Law, but not requiring payment of a fee could be done by the Council amending its Schedule of Fees and Charges.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The revised draft policy would take effect immediately following its adoption by Council

10:00 am At this time Councillor G Henley left the meeting.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

PL1710/163 Moved Councillor R Paine, seconded Councillor R Reekie

That the Council adopts revised Council Policy 009/6 – Beaches and Foreshore Areas, Access by the Holder of a Commercial Fishing Boat Licence as attached to this report (Attachment A).

CARRIED 4/0

10:05 am At this time Director Planning and Development Services, Manager Environmental Services and Ranger & Emergency Services Coordinator left the meeting.

Attachment A

009/6	Beaches and Foreshore Areas – Access by the Holder of a Commercial Fishing Boat Licence	V3 Draft
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PURPOSE

The purpose of this policy is to establish a framework for the management of beach and foreshore access by the holder of a Commercial Fishing Boat Licence.

SCOPE

This policy will guide the community and staff in the process for allowing holders of a commercial fishing boat licence to access the City's beaches and foreshore in a vehicle.

DEFINITIONS

Commercial Fishing: means fishing for a commercial purpose.

Commercial Fishing Boat Licence: means a licence granted under the *Fish Resources Management Regulation 1995* authorising an individual to engage in commercial fishing (issued by the Department of Fisheries Western Australia).

Local Government Property: as defined in the *Local Government Property Local Law 2010*.

Vehicle: means every conveyance and every object capable of being propelled on wheels, tracks or otherwise but does not include a trailer.

POLICY CONTENT

Pursuant to clause 2.1 (1) of the City of Busselton *Local Government Property Local Law 2010* (the Local Law):

"Unless under the authority of a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property".

Beach Access

Beach and foreshore areas and all adjoining reserves are to be left clean at all times.

Vehicles may only enter and exit beaches via the established formal access points at the following locations:

- Abbey Beach (eastern side of car park)
- Bunkers Bay Beach
- Castle Rock
- Dolphin Boat Ramp
- Eagle Bay Beach (eastern end)
- Eagle Bay Beach (western end)
- Eagle Bay Beach (middle, locked gate)
- Meelup Beach
- Siesta Park
- Smiths Beach (southern end)
- Quindalup Professional Fisher's Boat Ramp
- Quindalup Public Boat Ramp
- Wonnerup Beach Access

Temporary Beach Access Permit

Prior to accessing the City's beach and foreshore areas in a vehicle, holders of a Commercial Fishing Boat Licence are required to apply for a 'Commercial Fisher's Beach Access' permit from the City.

There is a limit of three vehicles plus trailers per permit. Permits are not transferable between vehicles without written approval from the City.

Permits are subject to the application fee as set out in Council's Adopted Schedule of Fees and Charges. Beach access permits for holders of a commercial fishing boat licence will generally be valid for a period of three years.

Vehicles

Only vehicles licenced/registered with the Department of Transport are permitted on the City's beaches and foreshore.

Policy Background

Policy Reference No – 009/6

Owner Unit – Ranger and Emergency Services

Originator – Ranger and Emergency Services Coordinator

Policy Approved by – Council

Date Approved –

Review Frequency – as required

Related Documents – City of Busselton *Local Government Property Local Law 2010*

History

Council Resolution	Date	Information
TBA	TBA	Policy reformatted to City standard Definitions included to provide clarity Terminology change from 'Licenced Professional Fishermen' to 'Holder of a Commercial Fishing Boat Licence' Information relating to the payment of an application fee included Permit period extended to three years Version 3
C0412/435	8 December 2004	Resolved as a continuing policy of the Council – no change Version 2
C0211/504	13 November 2002	Amendment to include Siesta Park as an approved access point. Version 2
		Version 1

6.3 REVIEW OF POLICY 049 – REGIONAL PRICE PREFERENCE

SUBJECT INDEX:

STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Chamber of Commerce Letter ⇒ Attachment B Proposed Policy 049 - Regional Price Preference ⇒

PRÉCIS

The purpose of this report is to consider responses to a public invitation to comment on a draft policy (049 – Regional Price Preference) which was adopted for public comment at the Council meeting held on 9 August 2017. Having considered the response, it is recommended that Council adopt the Policy without any changes.

BACKGROUND

Council considered a report at item 14.2 of the Council agenda held on 9 August 2107 (and previously at the Policy & Legislation Committee held on 20 July 2017) which proposed amendments to the policy to bring the contents into line with the relevant Regulations and resolved as follows:

COUNCIL DECISION / COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION C1708/192

That the Council:

1. Adopt the proposed Policy 049 - Regional Price Preference as shown in attachment B for the purpose of giving notice to the public in accordance with section 24E of the Functions and General Regulations; and
2. If there are no submissions received after the expiration to the public notice period the Policy be added to the Councils suite of adopted Policies.

The proposed policy was advertised for public comment and correspondence was sent to the Busselton Chamber of Commerce for their information and response if thought necessary.

On 25 September the Chamber provided the only response and as a consequence, Council is now required to consider that response when adopting the proposed Policy.

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 Local Government Act at section 3.57 – Tender for providing goods and services allows regulations to be made about tenders. As a result, Part 4A – Regional Price Preference section of the Functions and General Regulations have been enacted dealing with Regional Price Preferences.

RELEVANT PLANS AND POLICIES

Existing Policy 049 – Regional Price Preference

FINANCIAL IMPLICATIONS

There are no direct financial implication in association with this report although, when it is used budget provisions have been provided for the values of the relevant tender.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

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

RISK ASSESSMENT

There are no residual risks identified as being high or medium as a result of the Officer Recommendation.

CONSULTATION

The revised Policy is based on the City's existing policy and there is no change in focus of this policy. The Policy has been changed to more closely reflect the wording of the Regulations.

There is however a requirement by virtue of section 24E of the Regulations to advertise the proposed Policy for a period of not less than four weeks seeking submissions from members of the public. If there are submissions, Council is required to consider those submissions prior to formally adopting the Policy.

The officers recommendation was to adopt the policy for the purpose of advertising for public comment which was supported by the Committee and the Council.

In accordance with Section 24E of the Local Government (Functions and General) Regulations, the City gave notice that it intends to consider adopting a new Regional Price Preference Policy and further advised that the proposed policy closely follows the Regulations. The advertisement was placed both in The West Australian on Wednesday, 23 August 2017 and The Council for the Community Pages on Wednesday, 30 August 2017. The advertisements also included a direct link to the proposed draft policy located on the City of Busselton's public website.

The submission period closed on Friday 22 September 2107 and a submission from the Busselton Chamber of Commerce was received on Monday 25 September 2107 (Attachment A). Council is now required to consider the contents of the submission.

As a submission was received, the matter has been referred to Council for further consideration.

OFFICER COMMENT

At the Policy and Legislation Committee Meeting held on Thursday, 20 July 2017 this subject was considered as a discussion item. Material presented to the Committee included:

- Existing Policy 049 - Regional Price Preference;
- Part 4A of the Functions and General Regulations – Regional Price Preference; and
- Proposed Policy 049 - Regional Price Preference (marked up copy).

The contents of the Regulation were explained to the Committee members present and it was noted that the proposed new policy more specifically aligns to the Regulation referred to above. Importantly it was emphasised that a Regional Tenderer means a supplier of goods and services who has been operating a business continuously out of a premises out of the Region for at least six months or to some or all of the goods or services that are to be supplied from regional sources.

The submission whilst in response to the invitation to comment on the proposed draft policy does not reflect on the content of the policy, rather it proposed a review of all relevant purchasing policies involving the following:

- Tender Selection policy 031;
- Regional Price Preference Policy 049; and
- Purchasing Policy 239.

The bulk of the submission deals with information relating to the proposed inclusion in 'Local Selection Criteria weightings' in future revisions of policy 031 – Tender Selection Policy and as a consequence the comments are not related to Regional Price Preference Policy 049.

As the Regional Price Preference Policy 049 now very closely follows the provisions of the Functions & General Regulations, it is considered that there is little if any room to vary the policy with any meaningful result.

The City is committed to work with the Chamber in relation to all of the City's purchasing policies and work in this regards has already commenced. The liaison will likely result in changes being made to other related policies in the future.

In relation to this policy however - Regional Price Preference Policy 049 – no changes are proposed and it is now placed before Council for adoption.

CONCLUSION

As part of the regular practice of reviewing Council policies, a review was carried out on Policy 049 - Regional Price Preference. Following this review officers are recommending that the revised policy be adopted.

OPTIONS

The Council may agree or may not agree to the change of the existing policy or may seek to make alterations to the policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The proposed policy will become effectively upon being adopted.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

PL1710/164 Moved Councillor R Paine, seconded Councillor G Bleechmore

That the Council

1. Adopt the proposed Policy 049 - Regional Price Preference as shown in attachment B; and
2. The Busselton Chamber of Commerce be thanked for their submission and confirm that the City is currently working in conjunction with the Chamber in reviewing the City's purchasing practices.

CARRIED 4/0

Attachment B

Last updated 09/08/2017

049	Regional Price Preference	V3 Current
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1. PURPOSE

In order to promote sub-regional development the City will provide a price preference allowance to local suppliers located within the City of Busselton district when evaluating and awarding contracts via the Tendering Process (note that no price preference will be offered for purchases made other than via the tendering process). Any price preference provided will comply with Part 4A of the Local Government (Functions and General) Regulations 1996 as amended.

2. SCOPE

This policy applies to all tenders called by the City of Busselton.

3. POLICY CONTENT

The following price preference allowance will be allowed on the value of all goods and services sourced from within the City on tenders assessed in relation to this policy;

Part 1 Goods and Services

- 10% allowance up to a maximum price reduction of \$50,000 unless a lesser amount is stipulated in the tender document.

Part 2 Construction (building) Services

- 5% allowance up to a maximum price reduction of \$50,000 unless a lesser amount is stipulated in the tender document.

Part 3 Goods and Services, including Construction (Building) Services - tendered for the first time where Council previously supplied the Goods or Services

- 10% allowance up to a maximum price reduction of \$500,000 unless a lesser amount is stipulated in the tender document.

The Regional Price Preference allowance will only be given to suppliers who have been located within the City of Busselton district for more than 6 months prior to the advertising date of the tender.

Located within the City is defined as a supplier having a physical presence in the way of a shop, depot, outlet, headquarters or other premises where the goods or services specifically being provided are supplied from. This does not exclude suppliers whose registered business is located outside the City but undertake the business from premises within the City. An example is a franchisee of a multinational company.

Only the value of those goods and services identified in the tender as being from a source or supplied through the businesses physical presence located within the City will have the price preference applied when assessing the tender. The value of those goods and services claimed by the supplier may be adjusted during the tender assessment process if the value claimed is considered unreasonable or cannot be justified.

Price is only one factor that Council considers when evaluating a tender. There is nothing contained within this policy that compels Council to accept the lowest tender or any tender based on price offered.

Last updated 09/08/2017

Policy Background

Policy Reference No. - 049

Owner Unit – Contracts and Tendering

Originator – Director, Finance and Corporate Services

Policy approved by – Council

Date Approved – 9 August 2017

Review Frequency – As required

Related Documents –

Local Government (Functions and General) Regulations 1996

History

Council Resolution	Date	Information
C1708/192	9 August, 2017	
C1504/081	8 April, 2015	Version 3 Changes to reflect City of Busselton structure only
C1012/415	8 December, 2010	Policy re-adopted in new standard format Version 2
		Version 1

7. GENERAL DISCUSSION ITEMS

Nil

8. NEXT MEETING DATE

Thursday, 16 November 2017

9. CLOSURE

The meeting closed at 10.15am.

THESE MINUTES CONSISTING OF PAGES 1 TO 28 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON THURSDAY, 16 NOVEMBER 2017.

DATE: _____

PRESIDING MEMBER: _____